

# Contaminated Land Cleanup Programs



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Prepared by

Kendra Bonderud

Wisconsin Legislative Fiscal Bureau  
One East Main, Suite 301  
Madison, WI 53703  
<http://legis.wisconsin.gov/lfb>



TABLE OF CONTENTS

Introduction..... 1

*CHAPTER 1: FEDERAL CLEANUP INITIATIVES ADMINISTERED BY DNR..... 2*

    Superfund Cleanup Program..... 2

    Leaking Underground Storage Tank Program..... 6

    Federal Brownfields Grant Program..... 8

    Hazardous Waste Cleanup Program ..... 11

*CHAPTER 2: STATE-FUNDED CLEANUP PROGRAMS ADMINISTERED BY DNR..... 12*

    Remediation and Redevelopment Organizational Structure..... 12

    Environmental Cleanup Requirements ..... 13

    Hazardous Substance Spills Program ..... 14

    Abandoned Containers Actions ..... 16

    State-Funded Response Actions ..... 16

    Liability Exemptions and Assurances..... 20

    Local Government Negotiation and Cost Recovery ..... 24

    Other DNR Cleanup Initiatives..... 24

    Dry Cleaner Environmental Response Program..... 25

    Funding for DNR Administration..... 32

*CHAPTER 3: PROGRAMS ADMINISTERED BY OTHER STATE AGENCIES ..... 36*

    Brownfields Programs of the Wisconsin Economic Development Corporation ..... 36

    Agricultural Chemical Cleanup Program..... 36

Appendix I    Superfund Site Status in Wisconsin, June, 2014 ..... 37

Appendix II   State-Funded Response Actions Funded by the Wisconsin Environmental Fund  
                  as of June 30, 2014 ..... 38



# Contaminated Land Cleanup Programs

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

The Department of Natural Resources (DNR) is responsible for implementation of the state's direct response hazardous substances cleanup programs, establishment and administration of cleanup standards for contaminated groundwater and soil and implementation of most federal programs in cooperation with the U.S. Environmental Protection Agency (EPA). DNR's Remediation and Redevelopment program integrates all aspects of the cleanup process.

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

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

Several state programs are also intended to promote the cleanup and development of brownfields sites, which are abandoned, idle or underused industrial or commercial properties, the expansion or redevelopment of which is adversely affected by actual or perceived environmental contamination.

For information about funding for contaminated land cleanup programs, and about other contaminated land cleanup programs, see the Legislative Fiscal Bureau informational papers entitled, "Environmental Management Account" (for a description of a major funding source of the programs), "Petroleum Environmental Cleanup Fund Award (PECFA) Program," "Environmental Improvement Fund" (for a description of the land recycling loan program), "Wisconsin Economic Development Corporation" (for a description of brownfields grant programs), and "Agricultural Chemical Fees and Programs" (for a description of the agrichemical cleanup program).

*FEDERAL CLEANUP INITIATIVES ADMINISTERED BY DNR*

The four key federal contaminated land cleanup programs utilized in Wisconsin are: (a) the Superfund program; (b) the Resource Conservation and Recovery Act (RCRA) leaking underground storage tank (LUST) program; (c) federal brownfields programs; and (d) the RCRA program to clean up hazardous waste sites. The programs are administered by DNR's remediation and redevelopment program.

The Environmental Protection Agency (EPA) and DNR signed a memorandum of agreement in November, 2006, to implement the federal One Cleanup Program. Under the program, DNR and EPA coordinate which agency takes the lead in cleanup at specific sites, how cleanup rules will apply, and how DNR will take the lead in reviewing requests for approval of the cleanup.

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**Superfund Cleanup Program**

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The federal Superfund program was established in 1980 by the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended by the Superfund Amendments and Reauthorization Act (SARA) of 1986. The Superfund program was up for consideration of reauthorization in 1995. Congress has not reauthorized the program, but has continued to fund the program with federal funding primarily from general purpose revenues and cost recoveries. Superfund includes three cleanup components: (a) an emergency response program for sites posing an immediate and substantial danger; (b) a site assessment program to evaluate potential Superfund sites; and (c) a remedial ac-

tion program for longer-term cleanup remedies.

**Emergency Response Program**

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

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

EPA provided emergency response assistance totaling approximately \$660,000 at 24 sites in Wisconsin between January 1, 2013, and June 30,



2014. In addition, potential responsible parties spent approximately \$4.3 million on emergency response actions in the state during that time period that were overseen or required by EPA.

### **Site Assessment Program**

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

After the site has been nominated, EPA considers the priority of the site and decides whether it should be proposed for inclusion on the NPL. If proposed, following a public comment process, a site is listed on the NPL as a Superfund site. As of November, 2014, 1,322 sites nationwide are on the NPL. Thirty seven (3%) of these sites are in Wisconsin. (In addition, seven Wisconsin sites have been deleted from the NPL and one site has been proposed for listing. The Eau Claire municipal well field site is the most recent Superfund site to be removed from the list, in 2014.) Appendix I lists the 37 Wisconsin sites and their locations.

EPA may also propose that a site be listed on the NPL. In the summer of 1998, EPA proposed listing a 39-mile stretch of the Fox River from Lake Winnebago to Green Bay on the NPL because of contamination from PCBs (polychlorinated biphenyls). EPA postponed a decision to list the site on the NPL as long as the responsible parties (several paper companies) make progress in the design and implementation of a remedial action. Since 2004, dredging and removal of PCB-contaminated sediments has been conducted

in several areas of Little Lake Butte des Morts and the Lower Fox River from Appleton to Green Bay. Dredging, removal, and capping of contaminated sediments are expected to continue through at least 2017. Dewatered sediments from dredging are being disposed of in a Wisconsin landfill. Sediments with high levels of PCBs are being hauled out-of-state to a federally-regulated hazardous waste landfill.

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

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

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

a cleanup and pursue recovery of cleanup costs from other responsible parties. As long as the responsible parties who are working on the site continue to do so, EPA does not add the site to the NPL. Under this program, EPA, rather than DNR, takes the lead role in administering the cleanup. As of July, 2014, 10 Wisconsin sites are participating in this program.

### **Remedial Action Program**

EPA and DNR will negotiate with potentially responsible parties to fund the investigation and cleanup before spending any federal or state dollars on the site. Responsible parties are currently partially or fully financing investigations and cleanup at 27 Wisconsin Superfund sites, Superfund revenues are financing work at nine Wisconsin sites, and the potentially responsible party and Superfund are jointly funding work at one site. Appendix I lists these sites. The remedial investigation, design and remedial action activities have been completed at 34 of the 37 Wisconsin sites.

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

To date, if a site is financed with Superfund dollars, EPA has generally taken the lead role, although DNR has assumed the lead cleanup role at three of the 10 sites funded with federal Superfund dollars, and the operation and maintenance of work at one other site. In cases where the responsible parties agree to pay for the necessary work, those parties may request that DNR take the lead role. However, if DNR takes the lead

role in a case financed by a responsible party who fails to provide for appropriate cleanup, the lead may need to be renegotiated after EPA commits funding for that site.

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

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

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

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

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

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

## **Federal Funding**

Federal funding for the Superfund program came from various taxes on crude oil and chemical feedstocks, cost recoveries from site operators, generators and current and past owners, interest and general revenues. Superfund taxing authority expired on December 31, 1995, and had not been reinstated as of December, 2014.

Superfund pays 90% of the cost of treatment and other measures until completion of the cleanup or until 10 years after operation of those measures begins for groundwater restoration. The

state pays the remaining 10%. In most cases, after the first year of post-cleanup maintenance, the state pays 100% of all operation and maintenance costs. At waste sites operated by a state or its political subdivisions, Superfund pays 50% and the state pays 50%.

## **State Funding**

In Wisconsin, the state share for Superfund cleanup actions comes from the spills cleanup appropriation from the environmental management account of the segregated environmental fund or from general obligation bonds authorized for this purpose (with debt service payments from the environmental management account). DNR is authorized, under the environmental repair program, to take actions to implement the Superfund program in the state. The Department is required to review the remedial investigation and feasibility study to evaluate proposed repair actions. The Department commits the required state share after it agrees with EPA's assessment of the effectiveness of the proposed repair action. Federal and state expenditures for Superfund cleanup projects in Wisconsin are shown in Table 1.

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

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

**Table 1: State and Federal Expenditures for Wisconsin Superfund Cleanup Projects through June 30, 2014**

	State Share	Federal Share
<b>Expenditures</b>		
Pentawood Products (Burnett County)	\$1,913,000	\$17,217,100
Schmalz Landfill (Calumet County)	336,800	3,030,800
Stoughton City Landfill (Dane County)	1,293,100	1,293,100
Oconomowoc Electroplating Co. (Dodge County)	2,333,700	21,003,500
Eau Claire Municipal Well Field	175,700	5,868,000
Onalaska Municipal Landfill (La Crosse County)	4,200,000	4,620,000
Mid-State Disposal Landfill (Marathon County - Special agreement with potential responsible party, federal expense not required)	992,000	0
Moss American (Milwaukee County)	287,200	2,584,700
N.W. Mauthe Co.(Outagamie County)	519,300	4,673,600
Scrap Processing Inc. (Taylor County)	<u>162,700</u>	<u>1,464,000</u>
Total	\$12,213,500	\$61,754,800
<b>Committed but not yet Expended</b>		
Pentawood Products	\$387,000	\$3,482,900
Oconomowoc Electroplating Co.	235,900	2,122,800
Onalaska Municipal Landfill	130,200	1,172,200
Moss American	<u>32,800</u>	<u>295,300</u>
Total	\$785,900	\$7,073,200

erage property value per capita for all Wisconsin municipalities; (b) the municipality's per capita income divided by the average per capita income for all Wisconsin municipalities; and (c) the benefit of the remedial action to the municipality, defined as the cost savings to the municipality resulting from implementation of the remedial action and measured as a percentage of the most recent annual budget.

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### **Leaking Underground Storage Tank Program**

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

DNR acts as the lead state agency in all

cleanup actions and is the state recipient of the EPA LUST grant. Between 2001 and 2011, a portion of the federal grant was transferred to the former Department of Commerce, and, between 2011 and 2013, to the Department of Safety and Professional Services (DSPS), to administer cleanup at medium- and low-risk petroleum sites. DSPS responsibilities related to the LUST program were transferred to DNR in 2013 Act 20, the 2013-15 biennial budget act, effective July 1, 2013.

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

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

The LUST program complements the federal

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

The Department of Agriculture, Trade and Consumer Protection (DATCP) has responsibility for regulation and enforcement of storage tank standards and financial responsibility requirements in the UST program. (Under 2013 Act 20, these responsibilities were transferred from the Department of Safety and Professional Services.) The UST regulations are established in administrative rule Chapter ATCP 93 to regulate flammable and combustible liquids. However, state law also requires DATCP to regulate tanks not included under federal regulations (aboveground tanks, farm and residential motor fuel underground storage tanks with less than 1,100 gallons and heating oil underground storage tank systems).

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

### LUST Sites

DATCP regulates approximately 182,000 former and existing petroleum product underground storage tanks under federal and state requirements as of June 30, 2014. Of this total, approximately 50,900 tanks are active in-use, of which 12,200 are regulated under federal under-

ground storage tank requirements and the LUST program. Cleanup standards for LUST sites are established by DNR under the state hazardous substances spills law and under the administrative rule NR 700 series and Chapter NR 140. All LUST sites are regulated under the state hazardous substances spills law. DATCP also regulates approximately 37,000 aboveground tank systems under state requirements.

DNR administers the cleanup at all LUST sites. Most LUST sites will be eligible for PECFA reimbursement for cleanup of petroleum contamination. As of June 30, 2014, there were 14,262 petroleum-contaminated sites in the DNR database. Prior to July 1, 2013, DNR and DSPS both had responsibility for LUST site cleanup, and there were records of 17,253 sites in the databases of the two agencies. DNR believes the decrease in the number of sites is due to the database reconciliation that occurred after DSPS responsibilities were transferred to DNR.

### Funding

Federal funding provides 90% of the cost of implementing the LUST program and the state must pay the remaining 10%. Federal funding comes from a 0.1 cent per gallon excise tax on motor fuels. Table 2 shows the amount of federal LUST program funding received by Wisconsin

**Table 2: Federal Leaking Underground Storage Tank Funding for Wisconsin, 2009-10 Through 2014-15**

State Fiscal Year	Federal Funding DNR	Federal Funding DSPS
2009-10	\$852,000	\$797,200
2010-11	884,900	797,200
2011-12	887,300	829,600
2012-13	887,300	685,100
2013-14*	2,100,000	0
2014-15**	<u>1,269,600</u>	<u>0</u>
Total	\$7,292,900	\$3,109,100

\*U.S. EPA restructured the grant cycle and funding after the DSPS LUST responsibilities were transferred to DNR.

\*\*Estimated.

during the six years from state fiscal year 2009-10 through 2014-15. This includes \$7.3 million granted to DNR and \$3.1 million granted to DSPS and the former Department of Commerce during the six years.

In 2014-15, federal LUST funding is sufficient to support 13.5 DNR program staff. The majority of site cleanups under the LUST program are funded by responsible parties and are reimbursed by the state PECFA program.

In addition to federal funding for LUST program administration, EPA provided \$6,381,000 to DNR under the American Recovery and Reinvestment Act of 2009 (ARRA) for cleanup of contamination at LUST sites where the contamination is from petroleum. DNR made awards to seven communities in 2009 through 2013. Table 3 shows expended amounts for completed projects. All ARRA projects were completed and funds spent by March, of 2013.

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

Municipality	Grant Amount
Ashland County	\$88,000
Beaver Dam, City	32,133
Kenosha, City	975,000
Marinette County	34,961
Mauston, City	158,233
Milwaukee, City	3,074,832
Stetsonville, Village	2,000,000
DNR administration	<u>17,841</u>
Total	\$6,381,000

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### **Federal Brownfields Grant Program**

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The 2002 federal Small Business Liability Relief and Brownfields Revitalization Act included provisions to: (a) codify and expand EPA's brownfields program by authorizing funding for assessment and cleanup of brownfields

properties; (b) exempt certain contiguous property owners and prospective purchasers from Superfund liability; (c) authorize funding for state response programs; and (d) provide limited Superfund liability for certain properties cleaned up under state programs.

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

In the 12 federal fiscal years 2003 through 2014, EPA awarded a total of \$990 million in grants nationwide in the following categories: (a) brownfields assessment grants to inventory, assess and plan at brownfields sites; (b) brownfields revolving loan fund grants to grantees that would capitalize a revolving loan fund and provide subgrants to carry out cleanup activities at brownfields sites owned by the subgrant recipient; and (c) brownfields cleanup grants of up to \$200,000 each to carry out cleanup activities at brownfields sites owned by the grant recipient.

Under the federal brownfields grant program, in the 12 federal grant cycles 2003 through 2014, the federal grants have included \$52.8 million to 33 grantees in Wisconsin, with the grants equaling 5.3% of the funds awarded nationwide. The grant amounts and recipients are shown in Table 4. The amounts shown include grants awarded with regular program funding and with ARRA funds. Applications for the 2015 federal grant cycle were due to EPA in December, 2014.

### **DNR Ready for Reuse Program**

2003 Wisconsin Act 314 authorized DNR to enter into an agreement with EPA to establish and administer a federally-funded brownfields

**Table 4: Federal Brownfields Grants, Federal Fiscal Years 2003 Through 2014**

Recipient	Assessment	Revolving Loan Fund	Cleanup	Total
WI DNR	\$2,900,000	\$11,845,000		\$14,745,000
Ashland, City	200,000		\$400,000	600,000
Ashwaubenon, Village	400,000			400,000
Baraboo, City	600,000		600,000	1,200,000
Brown County Planning Commission	400,000			400,000
Delavan, City			1,400,000	1,400,000
Green Bay, City	800,000			800,000
Janesville, City	600,000	700,000		1,300,000
Jefferson County	200,000			200,000
Kenosha, City	400,000			400,000
Madison, City	400,000		400,000	800,000
Madison, Town	200,000	1,000,000		1,200,000
Manitowoc, City	400,000	1,000,000		1,400,000
Marathon County	400,000			400,000
Marinette, City	200,000			200,000
Marinette County	400,000			400,000
Milwaukee, City		250,000		250,000
Milwaukee, City Redevelopment Authority	2,600,000	8,150,000	5,380,000	16,130,000
Neenah, City	400,000			400,000
Oshkosh, City	800,000		1,000,000	1,800,000
Prairie du Chien, City	200,000			200,000
Racine, City	1,000,000	1,000,000	200,000	2,200,000
Racine Redevelopment Authority			200,000	200,000
Red Cliff Band of Lake Superior Chippewas of WI			151,900	151,900
Ripon, City	200,000			200,000
St. Croix Chippewa Indians of WI	200,000		200,000	400,000
Sheboygan County	400,000			400,000
Washington County	600,000			600,000
Wausau, City			400,000	400,000
Wauwatosa, City	800,000			800,000
West Allis, City	400,000	1,000,000	400,000	1,800,000
West Allis Community Development Authority			600,000	600,000
Wisconsin Rapids, City	400,000			400,000
<b>Total</b>	<b>\$16,500,000</b>	<b>\$24,945,000</b>	<b>\$11,331,900</b>	<b>\$52,776,900</b>

revolving loan program under which DNR would make loans or grants for the cleanup of brownfields. DNR is authorized to, at the request of another governmental entity, administer funds received from EPA by the other governmental entity for the establishment of a brownfields revolving loan program. The act also created the necessary state appropriations to receive the federal funds, make loans or grants, receive funds from another governmental entity, receive repayments from local governments of loans made with federal funds, and make loans or grants from the loan repayments.

Local governments that borrow under the DNR brownfields revolving loan program are authorized to issue municipal obligations or promissory notes in anticipation of receiving funding under the program. The obligations must be repaid within 10 years, or, if refinanced, within 20 years. The promissory notes must be repaid within 20 years.

DNR and the Wisconsin Brownfields Coalition, a partnership with the state's nine Regional Planning Commissions, oversee the Ready for Reuse Loan and Grant Program with \$11,845,000

EPA awarded to DNR in 2004 and subsequent years for a revolving loan fund. Local governments submit applications for funds to DNR. Local governments may use the ready for reuse grants or loans for: (a) cleanup of contamination from hazardous substances or hazardous substances commingled with petroleum; or (b) cleanup of petroleum contamination that is not eligible for reimbursement under the PECFA program. Funds may not be used for site assessment or investigation.

The program allocates 50% of Ready for Reuse program funds for grants, and the remaining 50% for loans with an interest rate of 0%. All of the ARRA funds were provided as grants. The maximum grant is \$200,000 per property. Grants are available for projects that can be completed in two years. Loan applicants must be a municipality. Grant applicants may be any unit of local government, tribe, or nonprofit organization. The applicant cannot have caused the contamination and must not have liability for environmental contamination under federal CERCLA provisions. The program gives preference to projects that have a DNR-approved site investigation report and a complete remedial action plan.

DNR makes decisions on funding Ready for Reuse projects as applications are received. As of June 30, 2014, DNR had awarded \$9.7 million in financial assistance, including 32 grants for a total of \$5,640,558 and six loans for a total of \$4,025,750, and had received \$352,477 in loan repayments. Funding recipients and amounts are shown in Table 5, and include awards made with regular and ARRA funds. As of July, 2014, DNR was also reviewing one grant and one loan application totaling \$405,700.

### Wisconsin Assessment Monies

DNR and the Wisconsin Brownfields Coalition partner to oversee distribution of \$2.1 million received since 2009 as a program called Wisconsin Assessment Monies. This is a subset

**Table 5: DNR Ready for Reuse Program Subset of Federal Brownfields Grant Program, Awards as of June 30, 2014**

	Number of Awards	Award Amount
<b>Loan Recipient</b>		
Appleton, City	1	\$300,000
Fond du Lac, City	1	352,477
Kenosha, City	2	1,613,273
La Crosse, City	1	260,000
Madison, City	1	<u>1,500,000</u>
Subtotal	6	\$4,025,750
<b>Grant Recipient</b>		
Bishop's Creek Community Development Corporation (Milwaukee)	1	\$305,766
Cudahy, City	1	264,800
Delafield, City	1	100,711
Elkhorn, City	1	146,965
Family Services of Northeast Wisconsin (Green Bay)	1	51,250
Kaukauna, City	1	30,000
Kenosha, City	2	200,000
Kiel, City	1	150,000
La Crosse, City	1	250,000
La Crosse Industrial Park Corporation	1	250,000
Madison, City	1	279,125
Marinette, City	1	59,000
Mauston, City RA	1	200,000
Merrill, RA	1	173,553
Milwaukee, City RA	3	670,000
Neenah Community Development Authority	2	429,469
Oak Creek, City	1	375,000
Oshkosh RA	2	497,241
Prairie du Chien, City	1	61,966
Prairie du Chien, RA	3	467,727
Superior, City	1	290,000
Waunakee, Village	2	136,814
Wausau, City	1	151,171
West Allis, City RA	<u>1</u>	<u>100,000</u>
Subtotal	32	\$5,640,558
Total	38	\$9,666,308

RA = Redevelopment Authority

of the \$2.9 million shown in Table 4. (The other \$0.8 million in assessment monies received by DNR was used to assess contamination at several properties in the City of Milwaukee.) DNR administers the grant, and provides awards to local



governments, private prospective purchasers of property, and private/public partnerships. Funds are used for contractor services to complete environmental site assessments and limited site investigations. DNR contracts directly with private consulting firms to complete this work under DNR's direction.

Applicants must ensure that the owner of the site has signed an agreement to authorize DNR and contractors access to the site. Eligible sites include closed or closing manufacturing and industrial sites, such as foundries, electroplaters, assembly lines, and other industrial facilities.

As of June 30, 2014, DNR awarded 43 grants to 39 applicants for \$1,626,169. This included three larger grants to the Milwaukee Redevelopment Authority (\$275,444), the City of Kenosha (\$220,139), and the City of New Holstein (\$99,979). The three local governments received a combined total of \$595,562, or 36.6% of the awarded funds. All of the other grant recipients received \$60,000 or less.

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### **Hazardous Waste Cleanup Program**

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The federal Resource Conservation and Re-

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

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

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

*STATE-FUNDED CLEANUP PROGRAMS ADMINISTERED BY DNR*

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

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

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### **Remediation and Redevelopment Organizational Structure**

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

DNR Remediation and Redevelopment central office staff are assigned to one of three sections: (a) the Fiscal and Information Technology Section oversees the fiscal management of state

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

The remediation and redevelopment program utilizes nine statewide standing teams to promote integration, assure program continuity, involve DNR staff throughout the state, involve customers and support increased decentralization to regional operations. The standing teams include: (a) hazardous substances spills; (b) outreach; (c) land recycling; (d) standards and streamlining; (e) automation; (f) petroleum; (g) dry cleaning; (h) WISRR (Wisconsin Initiative for Sustainable

Remediation and Redevelopment); and (i) safety and training.

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## **Environmental Cleanup Requirements**

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

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

The NR 700 rules address specific steps in the cleanup process, including hazardous substance discharge notification, site investigation, remedial action selection, design, construction and oper-

ation and case closure.

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

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

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

Chapter 160 of the statutes requires DNR to establish, by administrative rule, a preventive action limit (PAL) for each substance for which an enforcement standard is established. The PAL is a contamination limit that is more stringent than the groundwater enforcement standard and is intended as a warning level to allow action to be

taken prior to violation of the enforcement standard. Each state agency that regulates activities that may affect the groundwater is required to promulgate rules that establish the range of responses that the agency may take or require the party responsible for the contamination to take if the PAL is exceeded.

The NR 700 rule series provides the option of using natural attenuation for remedial action. Natural attenuation means allowing naturally-occurring physical, chemical or biological processes to degrade contamination over a period of time. There is no requirement for post-closure monitoring. DNR has published technical guidance regarding use of natural attenuation for cleanup of contamination.

In addition, DNR administrative rule chapters NR 140 and NR 726 allow flexible closure of contaminated sites. Flexible closure means that cleanup activities can be stopped and the site closed when groundwater contamination levels exceed enforcement standards if certain cleanup conditions are met.

Contaminated soil can affect human health if a person has direct contact with contaminated soil or if the contamination degrades groundwater or air quality. The NR 700 rule series includes soil remediation standards for concentrations of contaminants that can remain in soil at a site and not cause groundwater to become contaminated above groundwater quality standards, procedures for developing site specific soil cleanup standards, and procedures for determining when contaminated soil can remain in place to degrade naturally over time.

DNR administrative rules provide for a geographic information system (GIS) registry that includes information about contaminated sites that have been closed with a groundwater enforcement standard exceedence. Sites with residual groundwater contamination in excess of the NR140 enforcement standard must be placed on a

GIS registry. The site information is available on the DNR Internet web site. DNR administrative rules also require inclusion on the GIS registry of sites approved for closure with residual soil contamination.

As of June 30, 2014, 9,081 sites have been placed on the GIS registry of closed sites with a groundwater enforcement standard exceedence, residual soil contamination, or both. Of this total, 5,915 are PECFA-eligible. Of the 9,081 sites: (a) 2,232 sites have a groundwater enforcement standard exceedence, of which 1,807 are PECFA-eligible; (b) 2,649 sites have soil contamination only, of which 1,065 are PECFA-eligible; and (c) 4,200 sites have both groundwater and soil contamination, of which 3,043 sites are PECFA-eligible.

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### **Hazardous Substance Spills Program**

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

Administrative rule NR 706 establishes notification requirements for reporting a non-LUST discharge of hazardous substances. It also establishes notification exemptions for discharges of certain substances if the discharge does not adversely impact or threaten to impact human health, safety or the environment, if the substances are immediately cleaned up or evaporate before they can be cleaned up and are below speci-

fied quantities. The rule includes petroleum compounds, agrichemicals and substances for which there are federally-established reportable quantities.

### **Responsible Party**

The responsible party is required to take necessary action to restore the air, land or water to the condition it was in before the release occurred to the extent practicable, in compliance with the hazardous substances spills law. Responsible parties take the appropriate action in response to a discharge in 97 to 98% of all reported spills. DNR can take direct response action if the responsible party is not known or does not take appropriate action. The Department uses a contract with private contractors in geographic zones of the state to respond to 2 to 3% of spills per year. The NR 700 administrative rule series establishes which actions are necessary to respond to the discharge.

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

### **DNR Response Options**

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

### **Number and Type of Reported Spills**

A total of 770 spills were reported to DNR in 2012, 866 in 2013, and 547 in the first half of 2014. DNR estimates that approximately 64% of the spills are of hazardous substances that are petroleum products, 9% involve industrial chemicals such as acid, base, paint and bleach, 6% involve manure, 4% are agricultural chemicals such as fertilizers, pesticides, herbicides, and insecticides, and the remaining 16% are wastewater, antifreeze, food, gasses, metals, animal products, and other substances. The largest percentage of spills in 2012 through June 30, 2014, occurred on roadways (29%), small business, commercial or retail properties (8.5%), private property (8%), farms or rural locations (7%), industrial facilities (6%), and gas stations and auto repair properties (6%).

DNR responded to 37 spill sites from January 1, 2012, through June 30, 2014, with a total DNR response cost of approximately \$247,500 from the environmental management account of the environmental fund. When DNR is able to identify the responsible party for the spill, the Department recovers all or part of its costs. The cost re-

covery process can take a few years, depending on the timing and results of legal actions related to the spill.

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### **Abandoned Containers Actions**

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

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

DNR responded to 37 abandoned container sites holding hazardous substances from January 1, 2012, through June 30, 2014, with a total DNR response cost of approximately \$111,700 from the environmental fund. Approximately 44% of the costs of removing abandoned containers were in the northern region, 25% in the west central region, and 24% in the southeast region.

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### **State-Funded Response Actions**

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

#### **Responsible Party**

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

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

Under the spills law and environmental repair law, a person who contributes to contamination may be held liable for the entire cost of cleanup. The liability provisions of Superfund, s. 292.11 (spills statute) and s. 292.31 (the environmental repair statute) require the responsible party to pay all of the cleanup costs (even if it caused 50% of the contamination) if no other responsible parties are identified, and if the responsible party is unable to differentiate between the contamination caused by the responsible party and the contamination caused by other parties.

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

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

### **Inventory of Contaminated Sites**

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

DNR has developed information about sites with contamination or sites with a history of activity related to solid waste disposal or contami-

nation. In addition, the Department developed and maintains a comprehensive database called BRRTS (Bureau for Remediation and Redevelopment Tracking System) that allows people to search for information about sites that may have contamination. This is available to the public on the Department's Internet web site as "BRRTS on the Web." Information about all known contaminated sites is included on the BRRTS database.

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

### **Investigation and Remedial Action**

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

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

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

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

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

Appendix II lists the state sites that had been, or were being, investigated or cleaned up under the state-funded response action program through June 30, 2014. The list does not contain the sites where responsible parties are financing cleanup

and DNR is overseeing the work. (Some of these sites are also listed in the Superfund national priority list.) DNR will make expenditures for these sites from the state-funded response environmental management account segregated (SEG) appropriation and general obligation bonding authority described in subsequent sections.

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

DNR administers a state-funded response appropriation through the environmental management account of the environmental fund. The appropriation had \$7,992,000 available for expenditures in the 2013-15 biennium. This included expenditure authority of \$2,292,700 in 2013-14 and \$2,292,700 in 2014-15, encumbrances at the beginning of 2013-14 totaling \$942,100, and an unencumbered carry-in balance of \$2,464,500. Expenditures from the appropriation totaled \$1,219,700 in 2012-13 and \$1,511,900 in 2013-14. Expenditures averaged \$1.1 million annually for the five years from 2009-10 through 2013-14.

The appropriation is used for DNR expenditures related to: (a) DNR-lead cleanups of contaminated sites where the responsible party is unknown or cannot or will not clean up the site (see Appendix II for a list of sites with cleanup funded from the appropriation); (b) the state share at certain Superfund site cleanups; (c) the state match to federal LUST expenditures; (d) emergency spill response and cleanups; (e) response and cleanup of abandoned containers of hazardous substances where the responsible party cannot be identified; (f) \$3 per capita payments to certain municipalities for groundwater monitoring and equipment purchases; (g) provision of temporary emergency water supplies; (h) replacement of contaminated private wells if the household meets certain income and eligibility criteria; (i) DNR-lead remedial actions at abandoned privately-owned landfills; (j) DNR-lead cleanups resulting from responsible party payment of court settlements; and (k) limited-term employee costs related to DNR-lead cleanups.



## **Municipal Monitoring Cost Reimbursements**

Under certain conditions, DNR is directed to reimburse costs incurred by a municipality for groundwater monitoring. The reimbursement is for costs in excess of \$3 per capita annually for monitoring mandated by the Department at municipally owned or operated "nonapproved" solid waste sites (certain older facilities that did not have plans of operation approved by DNR after 1978).

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

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

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

The environmental fund pays for temporary emergency water supplies if the following criteria are met: (a) the source of potable water is from a contaminated well or contaminated water supply; (b) the contamination is known or is suspected by DNR to be from environmental pollution or a hazardous substance discharge subject to the

spills or environmental repair statutes; (c) water sampling is conducted in accordance with specific requirements; and (d) DNR or the Department of Health Services has issued a drinking water advisory notice for the water supply. DNR paid a cumulative total of approximately \$266,700 as of June 30, 2014, for temporary emergency water supplies, including \$605 in 2012-13 and \$1,894 in 2013-14.

The environmental management account also pays for permanent replacement water supplies instead of temporary emergency water supplies under certain circumstances. DNR may allow payment of a portion of the costs of a permanent replacement water supply if: (a) the owner of the contaminated well demonstrates financial hardship; and (b) DNR determines that the cost of the permanent replacement water supply would create an unreasonable financial hardship for the well owner. These expenditures are made as supplements to a separate well compensation grant awarded by the Department for income-eligible households with contaminated wells. DNR paid approximately \$905,100 from 1984 through June 30, 2014, for 224 permanent replacement water supplies where there was a demonstrated financial hardship for the well owner. This included expenditures of \$81,348 for seven wells in 2012-13, and \$23,584 for four wells in 2013-14.

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

DNR is authorized \$50 million in general obligation bonding to fund the state's cost-share for cleanup of federal Superfund and LUST sites and state-funded cleanups under the environmental repair statute (s. 292.31) and hazardous substances spills statute (s. 292.11). Bonding authority can be used for public purpose projects such as cleanup of contaminated groundwater, soils and sediments, and activities such as investigation, remedial design and cleanup of a specific site when the responsible party is unknown, unable or unwilling to fund the cleanup. Bonding authority

cannot be used for general preliminary investigations or cleanups funded by responsible parties.

DNR has expended or encumbered \$44.9 million of the available \$50 million in bonding authority as of June 30, 2014. DNR has committed or expects to commit, by the end of 2014-15, approximately \$750,000 in additional bonding authority for work at sites where investigative work has been completed and remedial design work is completed or underway, and implementation of the selected remedy may occur.

DNR is authorized \$7 million in general obligation bonding for contaminated sediment cleanup in Lake Michigan or Lake Superior or a tributary of one of the two lakes. As of June 30, 2014, DNR has expended or encumbered all of the available \$7 million.

The debt service for the two purposes is paid from the same appropriation from the segregated environmental management account of the environmental fund. In 2013-14, \$3.4 million SEG was expended on general obligation bond debt service for remedial action and contaminated sediment cleanup.

DNR is also authorized \$32 million in general obligation bonding authority (including \$5 million in the 2013-15 biennial budget), with debt service costs paid from the environmental management account, for removal of contaminated sediment from Lake Michigan or Lake Superior or their tributaries if the project is in a water body that DNR has identified, under the federal Clean Water Act, as being impaired and the source of the impairment is contaminated sediment. As of June 30, 2014, DNR has encumbered \$22.8 million of the available \$32 million. In 2013-14, \$1.4 million SEG was expended on debt service costs for this purpose.

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## **Liability Exemptions and Assurances**

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Several limitations on liability for cleanup of contamination under the hazardous substances spills law were enacted in 1994 under 1993 Wisconsin Act 453, and modified in several subsequent legislative sessions. The provisions were established in order to encourage persons to voluntarily cleanup contamination and restore properties to productive use. These provisions are generally intended to encourage the cleanup and redevelopment of brownfields. Brownfields are abandoned, idle or underused industrial or commercial properties, the expansion or redevelopment of which is adversely affected by actual or perceived environmental contamination.

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

### **Voluntary Party Limited Liability Provisions**

Parties who conduct voluntary cleanups of contaminated property are able to limit their environmental liability if they enter DNR's voluntary party liability exemption (VPLE) program and meet certain conditions. The provisions are found in s. 292.15 of the Statutes. Voluntary parties may obtain an exemption from further remedial action on the property. A "voluntary party" is defined as any person who submits an application to obtain an exemption from liability and who pays the required fees to offset DNR costs for providing the voluntary party exemption certification.

A voluntary party is exempt from certain hazardous substance discharge and solid and hazardous waste statutory requirements for eligible properties if: (a) the party submits an application to DNR and pays the appropriate fees; (b) an environmental investigation of the property is conducted and it is approved by DNR; (c) the property is cleaned up by restoring the environment and minimizing the harmful effects from a release of a hazardous substance in accordance with statutes and DNR rules; (d) the voluntary party obtains a certificate of completion from DNR that the property has been satisfactorily cleaned up; and (e) the voluntary party maintains and monitors the property as required by DNR.

The voluntary party's exemption from liability continues in the future even if environmental cleanup requirements change, the cleanup fails to fully restore the environment, or if the contamination is discovered to be more extensive than anticipated by the voluntary party and DNR. The exemption applies to the voluntary party's successor if the successor maintains the property.

DNR is authorized to approve a partial cleanup by a voluntary party and issue a certificate of completion that states that not all of the property has been satisfactorily restored or that not all of the harmful effects from a discharge of a hazardous substance have been minimized.

The exemption or partial exemption from liability for a voluntary party does not apply to: (a) certain hazardous waste treatment, storage or disposal facilities; (b) certain "approved" solid waste facilities, which includes most modern landfills; and (c) to solid waste facilities or waste sites at which active remediation is required, such as groundwater monitoring, leachate or groundwater collection or treatment, or active gas extraction as all or part of the remedial action. The exemption or partial exemption does not exempt the property from any lien for recovery of costs filed by DNR prior to the date DNR issues a certificate of exemption or partial exemption.

As of June 30, 2014, DNR received 367 applications for participation in the voluntary party liability program. Of this total, 145 properties have received a certificate of completion and received an exemption from DNR from future liability for the site. Eleven were denied because the site or applicant was not eligible for the voluntary party liability exemption, and 96 applications were withdrawn. The remaining 115 properties are in the process of completing the investigation and cleanup needed to receive a certificate of completion.

DNR administrative rules found in Chapter NR 754 include requirements for insurance at sites where voluntary parties are using natural attenuation in cases of groundwater contamination and a liability exemption is sought. As of June 30, 2014, DNR has received insurance premiums and fees totaling \$667,000 for 42 sites, and has issued certificates of completion for all 42 sites.

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

Local governments and economic development corporations that meet certain Internal Revenue Code tax-exempt criteria are not liable for cleanup under the hazardous substances spills and solid waste management statutes for discharges of hazardous substances on or originating from property they acquired in certain ways, or if the contamination resulted from an unlicensed solid waste site or facility. They are also exempt from the requirement to reimburse DNR for any cleanup expenses incurred by DNR at these sites.

Local governmental units include a city, town, village, county, county utility district, town sanitary district, public inland lake protection and rehabilitation district, metropolitan sewage district, redevelopment authority, public body designated by a municipality, community development authority and housing authority.

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

A local government or economic development corporation is not eligible for the exemption from liability if the local government or economic development corporation: (a) caused the discharge of the hazardous substance; (b) failed to restrict access to the property to minimize costs or damages that may result from unauthorized persons entering the property; (c) failed to sample and analyze unidentified substances in containers stored aboveground on the property; or (d) failed to remove and properly dispose of, or to properly store, any hazardous substance stored above ground on the property in a container that is leaking or is likely to leak.

If the local government or corporation intends to use or develop the property, it must take actions that the DNR determines are necessary to reduce threats to public health or safety related to the reuse of the property.

Local governments that meet the specified conditions are exempt from environmental liability and do not have to receive approval from DNR. Thus, DNR does not have data about how many sites are eligible for the exemption. DNR estimates that, as of June 30, 2014, 80 local governments have requested that DNR provide a letter of general liability clarification, which is a written

determination by DNR on the local government's eligibility for the exemption.

### **Lender Limited Liability Provisions**

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

The lender is required to reimburse DNR for the costs of reviewing materials if the lender requests a written clarification of their liability status. As of June 30, 2014, DNR has issued 125 lender assessment review letters.

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

A person is exempt, under s. 292.13 of the statutes, from liability for remedial action under the hazardous substances spills law with respect to the existence of a hazardous substance in the groundwater or soil, including sediments, on property possessed or controlled by the person if: (a) the discharge of the hazardous substance orig-

inated from a source on property that is possessed or controlled by another; (b) the person did not possess or control the hazardous substance on the property on which the discharge originated or cause the original discharge; (c) the person conducts an investigation or submits other information that DNR determines is adequate to determine that (a) and (b) are met; (d) the person agrees to allow DNR and other specified parties to enter the property and take action to respond to the discharge; (e) the person agrees to avoid any interference with action undertaken to respond to the discharge and to avoid actions that worsen the discharge; and (f) the person agrees to other specified conditions that DNR determines are reasonable and necessary to ensure that DNR or other specified persons can adequately respond to the discharge.

Further, the person must agree to take one or more of the following actions at the direction of DNR, if, after DNR has made a reasonable attempt to notify the party who caused the discharge of the hazardous substance about the party's responsibilities under the spills law, DNR determines that the action or actions are necessary to prevent an imminent threat to human health, safety or welfare or to the environment: (a) limit public access to the property; (b) identify, monitor and mitigate fire, explosion and vapor hazards on the property; and (c) visually inspect the property and install appropriate containment barriers.

Property owners who qualify for the off-site exemption do not have to request or receive approval from DNR in order to be exempt. However, DNR may, upon request, issue a written determination that the person is not required to respond to the discharge or reimburse DNR for the costs of responding to the discharge if DNR determines that the person qualifies for the exemption from liability. DNR may assess and collect fees from a person to offset the costs of issuing determinations to persons who request them. As of June 30, 2014, DNR has issued 342 off-site

liability exemption letters.

### **DNR Technical Assistance**

DNR is authorized, under s. 292.55 of the statutes, to provide various types of technical assistance and to assess and collect fees from the requester of services to offset the costs of providing assistance. Examples of types of technical assistance would include, upon request: (a) assisting persons who want to determine who is liable for environmental pollution of properties; (b) assisting in, or providing comments on the planning and implementation of an environmental investigation of a property or the environmental cleanup of a property; (c) determining whether further action is necessary to remedy environmental pollution of a property; and (d) issuing a letter to a person concerning the environmental liability of owning or leasing the property, the type and extent of contamination on the property or the adequacy of an environmental investigation of the site. As of June 30, 2014, DNR has issued 732 general liability clarification letters, 63 letters concerning the environmental liability of leasing a property, and 2,631 letters regarding other types of technical assistance.

### **Cancellation of Delinquent Taxes**

Wisconsin Counties and the City of Milwaukee are authorized to cancel part or all of delinquent property taxes, interest and penalties on a contaminated property. In order to be eligible, an environmental assessment would have to show that contamination exists on a property and the property owner or potential owner would have to enter into an agreement with DNR to investigate and clean up the property. As of June 30, 2014, DNR has entered into 27 cleanup agreements for tax delinquent contaminated sites. The agreement is submitted to the taxing authority, either a County or the City of Milwaukee, and that taxing authority determines whether all or a portion of the delinquent taxes will be canceled.

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

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

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

In September, 1997, DNR created a pilot cost-sharing program to allocate \$3,000,000 of existing general obligation bonding authority for construction projects at the landfills participating in the negotiation procedure. All of the pilot program funds were allocated to the following four communities: (a) Rice Lake, \$750,000; (b) Amery, \$350,000; (c) Grafton, \$400,000; and (d) City of Waukesha, \$1,500,000. All four completed the necessary process and received reimbursement.

No other sites have been entered in the negotiation procedure. DNR staff and interested

persons met several years ago to discuss potential improvements to the process. The parties were not able to resolve issues related to allocating the orphan share at municipal landfills, that is, how to allocate cleanup costs for the share of responsibility of unknown parties or parties that are unable to finance cleanup costs.

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## **Other DNR Cleanup Initiatives**

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The DNR Remediation and Redevelopment program coordinates other contamination cleanup initiatives. Under the Wisconsin Initiative for Sustainable Remediation and Redevelopment (WISRR) initiated in 2008, DNR staff encourage persons who are doing site cleanup to use green and sustainable practices. Administrative code revisions to the NR 700 series that went into effect in November, 2013, require responsible parties to evaluate energy use, the potential to use renewable energy, air pollution emissions, water use, future land use, recycling, and long-term care and stewardship of the site.

Under the Wisconsin Plant Recovery Initiative which began in March, 2010, DNR staff provide resources and technical assistance to industrial plants that are closing and to the communities in which they are located. When a company announces a plant closing and submits the required notification of closing to the Department of Workforce Development (DWD), DWD notifies DNR. DNR staff also learn about plant closings from other sources, such as through news media and bankruptcy filings.

DNR staff from the remediation, waste, water and air programs offer to work with the company and the community to determine potential environmental issues at the property, identify any potential need for environmental cleanup, and expedite reuse of the property. DNR informs the company of its responsibilities to clean up any

contamination, and informs both the company and the community of brownfields resources available to both parties to assess the site for any potential contamination, clean up contamination, and redevelop the property.

DNR also provides: (a) technical assistance on regulatory and environmental issues; (b) emergency assistance for any spills or contamination that presents an immediate threat to public health or the environment; (c) information about, and coordination of receipt of other available state and federal environmental assessment and site cleanup funds; (d) issuance of liability exemption and liability clarification letters for local governments and private parties; and (e) technical oversight to ensure any contamination at the property is cleaned up in accordance with state cleanup requirements.

As of June 30, 2014, DNR contacted 141 closing or closed plants with environmental impacts. DNR has also identified bankrupt companies that own sites with environmental liabilities, especially with active remediation systems (for example, a groundwater pumping system). DNR has filed claims in nine bankruptcy cases and secured \$14.5 million in settlements to pay for continuing remediation work at sites with bankrupt owners.

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

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

created to support the program.

Statutes related to reimbursement of claims under the program are contained in s. 292.65. The program is also administered through rule Chapter NR 169. DNR began paying awards in 2000.

The program and fees have a statutory sunset of June 30, 2032 (35 years after creation).

### **Revenue**

The segregated dry cleaner environmental response fund provides revenues for the dry cleaner environmental response program. Revenues received under the program totaled \$17,170,800 in 1997-98 through 2013-14, including \$811,500 in 2012-13 and \$772,000 in 2013-14. Revenues are anticipated to generate approximately \$750,000 in 2014-15.

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

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

1. A dry cleaning fee paid by every operator of a dry cleaning facility equal to 2.8% of the gross receipts from the previous three months from dry cleaning, due on April 25, July 25, October 25, and January 25; (The fee was 1.8% prior to January 1, 2008.)
2. A dry cleaning products fee imposed on persons who sell a dry cleaning solvent to a dry

cleaning facility equal to \$5.00 per gallon of perchloroethylene sold and \$0.75 per gallon of any dry cleaning product other than perchlorethylene sold, which is due on April 25, July 25, October 25, and January 25 for the previous three months;

3. A late filing fee, interest, and negligency penalty after the due date of the quarterly due date for the dry cleaning facility license fee; and

4. Any recovery of fraudulent awards.

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

### **Loan from Environmental Improvement Fund**

Under 2009 Act 28, the Department of Administration (DOA) and DNR were authorized to enter into an agreement to transfer up to \$6.2 million from the land recycling loan program within the environmental improvement fund (EIF) to the dry cleaner environmental response program to pay awards under the dry cleaner environmental response program. [Further information can be found in the Legislative Fiscal Bureau informational paper entitled, "Environmental Improvement Fund."]

DNR and DOA entered into an agreement effective July 30, 2009, to authorize the transfer. DNR submits quarterly requests to DOA for transfer of the amount needed to pay dry cleaner awards during the quarter. The dry cleaner program is re-

quired to repay the environmental improvement fund at least \$1,000 per year, and is assessed an interest charge equal to the average rate earned by the state investment fund (cash balances held by the state), with the rate calculated as no less than 0% and no greater than the environmental improvement fund market interest rate (currently 3.5%). As of June 30, 2014, \$6,204,000 has been transferred from the environmental improvement fund to the dry cleaner response fund, \$5,000 in principal and \$5,900 in interest has been repaid, \$21,600 in interest cost has been accrued but not repaid, for a total of \$6,220,600 owed by the dry cleaner environmental response fund to the environmental improvement fund. Current law does not allow additional funds to be transferred from the environmental improvement fund.

### **Eligible Applicants**

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

An "operator" is defined as: (a) a person who holds a dry cleaning facility license issued by DOR; (b) a subsidiary or parent corporation of a person who holds a dry cleaning facility license; (c) a person who operated a dry cleaning facility



that ceased operating before October 14, 1997; or (d) a person who operated a dry cleaning facility that ceased operation after October 13, 1997, if the facility had a dry cleaning facility license before it ceased operation.

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

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

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

### **Eligible and Ineligible Costs**

Eligible reimbursable costs under the program include reasonable and necessary costs paid for the following items only: (a) removal of dry cleaning products from surface waters, groundwater or soil; (b) investigation and assessment of contamination caused by a dry cleaning product discharge from a dry cleaning facility; (c) prepa-

ration of remedial action plans; (d) removal of contaminated soils; (e) soil and groundwater treatment and disposal; (f) environmental monitoring; (g) laboratory services; (h) maintenance of equipment for dry cleaning product recovery performed as part of remedial action activities; (i) restoration or replacement of a private or public potable water supply; (j) restoration of environmental quality; (k) contractor costs for remedial action activities; (l) inspection and supervision; (m) costs up to \$15,000 for removal or replacement of building components that had to be removed or destroyed in order to investigate, treat or remove contaminated soil or water; and (n) other costs that DNR determines to be reasonable and necessary. Applicants were allowed to request reimbursement of "past costs" incurred between January 1, 1991, and October 13, 1997, with applications for past costs due to DNR by April 30, 2000.

Some of the main ineligible costs include the following: (a) costs incurred before October 14, 1997 (unless eligible as "past costs"); (b) costs of retrofitting or replacing dry cleaning equipment; (c) other costs that DNR determines to be associated with, but not integral to, the investigation and remediation of a dry cleaning products discharge from a dry cleaning facility; (d) unreasonable or unnecessary costs; (e) costs for investigations or remedial action activities conducted outside Wisconsin; (f) costs for discharges from hazardous substances other than dry cleaning products; and (g) costs of financing eligible activities.

DNR is required to deny an application for an award if any of the following applies: (a) the application is not within the scope of the program; (b) the applicant submits a fraudulent application; (c) the applicant has been grossly negligent in the maintenance of the dry cleaning facility; (d) the applicant intentionally damaged the dry cleaning equipment; (e) the applicant falsified records; (f) the applicant willfully failed to comply with laws or rules of the state concerning the use or dispos-

al of dry cleaning solvents; (g) the fees required under the program have not been paid, unless an agreement has been entered into with the Department of Revenue establishing a payment schedule for all of the required fees; and (h) the dry cleaning products discharge was caused on or after October 14, 1997, by a person who provided services or products to the owner or operator including a person who provided perchloroethylene to the owner or operator using a system other than a closed, direct-coupled delivery system.

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

DNR utilizes a bidding process for work at all sites, and directly oversees approval of work at every site. DNR requires DERP site consultants to use a web-based reimbursement spreadsheet to track all bid and expended costs.

Administrative rule NR 169 includes requirements for soliciting bids for completing a site investigation and remedial action. In addition, NR 169 includes provisions which require claimants to obtain DNR approval of all actions for which a claimant will seek reimbursement, including immediate and interim actions, which do not require bidding, site investigation and remedial action bid selection, and any change orders exceeding \$3,000.

### **Award and Deductible Provisions**

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

DNR is required to first allocate 9.7% of the

financial assistance funds appropriated in each year for awards for immediate action activities and applications that exceed the amount anticipated. An immediate action is a remedial action that is taken within a short time after a discharge of dry cleaning product occurs, or after the discovery of the discharge, to halt the discharge, contain or remove discharged dry cleaning product, or remove contaminated soil or water in order to restore the environment to the extent practicable and to minimize the harmful effects of the discharge to air, lands, and waters of the state and to eliminate any imminent threat to public health, safety, or welfare. As of June 30, 2014, DNR reimbursed \$120,300 for four sites for immediate action activities.

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

1. High-priority sites are allocated 25% of available funds and consist of sites that DNR determines pose an imminent risk to human health or the environment. Examples include sites where the dry cleaning product has contaminated public or private drinking water supplies in concentrations that exceed the health-based standard for the contaminant, where contamination of the drinking water supply is imminent, or where dry cleaning solvent vapors above specified vapor action levels are confirmed within occupied buildings other than dry cleaning facilities.

2. Medium-priority sites are allocated 60% of available funds and consist of sites that DNR determines pose a significant risk to human health or the environment, or both. Examples include sites where there is contamination of a water supply below health standards, impacts above an environmental standard to surface water or wetlands, or vapor concentrations in buildings above specified risk screening levels but not high enough to be classified as high-priority.

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

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

DNR may waive collection of the deductible if the owner or operator is unable to pay. If the deductible is waived, DNR records a lien on the property until the deductible amount is paid. DNR waived the deductible and filed a lien for two properties as of July, 2014.

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

gress report before paying the reimbursement. Only one reimbursement request can be submitted per fiscal year during the site investigation phase. An owner or operator may submit applications for site investigation and remedial action during the same year, but no more than two applications per year.

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

## **Appropriations**

In 2014-15, DNR is authorized funding of \$271,300 with 3.0 positions from the segregated dry cleaner environmental response fund for administration of the financial assistance and remediation components of the program. This includes \$180,600 with 2.0 positions in the Bureau for Remediation and Redevelopment to administer cleanup requirements and \$90,700 with 1.0 position in the Bureau of Community Financial Assistance to administer financial assistance requirements. DNR is appropriated \$1,713,600 in 2013-14 and \$763,700 in 2014-15 in a biennial appropriation for financial assistance awards under the program. In 2014-15, DOR is provided with \$18,800 in administrative funds to collect

**Table 6: Dry Cleaner Environmental Response Fund Condition, 2012-13 through 2014-15**

	2012-13 Actual	2013-14 Actual	2014-15 Estimated
Opening Balance, July 1	\$160,500	\$238,800	\$347,200
Revenue			
Program Fees	811,500	772,000	750,000
Loan from Environmental Improvement Fund	<u>812,000</u>	<u>1,248,300</u>	<u>0</u>
Total Revenue	\$1,623,500	\$2,020,300	\$750,000
Total Revenue Available	\$1,784,000	\$2,259,100	\$1,097,200
Expenditures			
Awards	\$1,272,300	\$1,667,200	\$799,000
Administration	265,100	238,800	290,100
Repay EIF	<u>7,800</u>	<u>5,900</u>	<u>7,000</u>
Total Expenditures	\$1,545,200	\$1,911,900	\$1,096,100
Closing Balance	\$238,800	\$347,200	\$1,100

the revenues under the program, and allocates it among several positions.

The condition of the segregated dry cleaner environmental response fund is shown in Table 6. Revenues totaled \$772,000 in 2013-14, and \$1,248,350 was transferred from the environmental improvement fund loan. Revenues are expected to total approximately \$750,000 in 2014-15. Expenditures totaled \$1,911,900 in 2013-14, including \$1,667,200 for dry cleaner environmental response awards, \$238,800 for DNR and DOR administration, and \$5,900 for repayment of principal (\$1,000) and accrual of interest due on the loan from the environmental improvement fund. It is anticipated there will be a minimal balance in the fund on June 30, 2015.

Table 7 shows the cumulative amount of program costs for financial assistance awards and administration by fiscal year.

### Participation

As of June 30, 2014, DNR has paid \$19,187,246 for 583 claims for 156 eligible dry

cleaner facility sites. The distribution of the category of claims is shown in Table 8. Of the 583 claims paid, \$8.8 million (46%) and 232 claims (40%) were for high priority sites.

Claims are generally processed within about three months of receipt of a complete claim, on a first-in, first-out basis. In January, 2014, DNR notified potential applicants under the program that revenue is expected to be insufficient to pay some anticipated claims during the remainder of the 2013-15 biennium. As of April, 2014, DNR placed approved claims in line to be paid in the order they are approved, on a quarterly basis, as quarterly revenues are received under the program. As of November, 2014, DNR had approved an additional

11 claims for \$319,300, for payment when funds are available in 2015, and was in the process of reviewing four other claims totaling \$206,700. DNR anticipates that those four claims approved in the fall of 2014 will be paid in late 2015 to early 2016, based on the timing of receipt of anticipated revenues.

Reimbursement has been requested for a total of 156 of the 230 sites that filed notices of potential claims, of which 56 sites have received final payment, and 100 have received partial payment. Of the 230 potential sites, 74 have not filed an initial claim, at least 16 of which are closed.

As of late 2014, DNR estimated the total potential cumulative cost of the program may be approximately \$38.9 million, including \$19.2 million paid as of June 30, 2014, and \$19.7 million in anticipated future reimbursement claims for 148 open sites.

### Use of Environmental Fund

If DNR uses the state-funded response ap-

**Table 7: Dry Cleaner Environmental Response Program Costs Paid by Fiscal Year**

	Dry Cleaner Awards	DNR & DOR Administration	Transfer to General Fund	Repay EIF Loan*	Total
1997-98	\$0	\$51,900			\$51,900
1998-99	0	136,100			136,100
1999-00	0	154,600			154,600
2000-01	1,102,500	180,600			1,283,100
2001-02	592,500	201,700			794,200
2002-03	1,218,700	245,100			1,463,800
2003-04	508,000	256,100			764,100
2004-05	1,592,000	245,600	\$3,200		1,840,800
2005-06	1,715,100	249,900			1,965,000
2006-07	1,934,900	281,900			2,216,800
2007-08	488,700	284,900			773,600
2008-09	850,500	259,300			1,109,800
2009-10	3,132,300	235,800	3,700	\$5,200	3,377,000
2010-11	1,786,300	245,700	3,700	7,200	2,042,900
2011-12	1,326,100	264,200		6,500	1,596,800
2012-13	1,272,300	265,100		7,800	1,545,200
2013-14	1,667,200	238,800		5,900	1,911,900
2014-15**	<u>799,000</u>	<u>290,100</u>		<u>7,000</u>	<u>1,096,100</u>
Total	\$19,986,100	\$4,087,400	\$10,600	\$39,600	\$24,123,700
Percent	82.9%	16.9%	0.0%	0.2%	100.0%

\*Includes repayment of principal, and either repayment or accrual of interest expense.

\*\*Estimated.

appropriation from the segregated environmental fund to pay for a cleanup of a discharge of dry cleaning solvent at a dry cleaning facility and there is a person who would be an eligible owner

**Table 8: Dry Cleaner Environmental Response Program Claims Paid by Category, as of June 30, 2014**

	Claims*	Amount
Past Costs	11	\$549,340
High Priority	232	8,814,462
Medium Priority	206	6,290,783
Low Priority	127	3,412,329
Immediate Action	<u>7</u>	<u>120,332</u>
Total	583	\$19,187,246

\* The 583 claims were paid for 156 sites. Of the 156 sites, cleanup work and reimbursement has been completed at 56 sites.

or operator for the dry cleaning facility, DNR is required to transfer an equal amount of money from the dry cleaner environmental response financial assistance appropriation to the environmental fund when sufficient funds are available. DNR has determined that owners of three dry cleaning facilities are unable to pay for the cleanup. The dry cleaner financial assistance appropriation reimbursed the environmental fund for \$64,300 of cleanup expenditures in 2002-03. An additional \$698,467 in investigation and cleanup costs has been incurred by the environmental fund for five sites and will be reimbursed by the dry cleaner environmental response appropriation at an indefinite future time when funds are available to do so. An additional \$330,091 was incurred by the ready for reuse program for one site, and was repaid by DERF during 2008-09

through 2012-13. DNR anticipates an additional unknown amount will be spent from the environmental fund for other sites, particularly to assess and mitigate the risk of vapor intrusion to nearby homes and businesses.

### **Liability**

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

### **Dry Cleaner Environmental Response Council**

A six-member Dry Cleaner Environmental Response Council advises DNR concerning the program. The Council consists of the following members appointed by the Governor for three-year terms: (a) three representatives of dry cleaning operations; (b) one representative of wholesale distributors of dry cleaning solvent; (c) one engineer, professional geologist, hydrogeologist, or soil scientist with knowledge, experience or education concerning remediation of environmental contamination; and (e) one representative of manufacturers and sellers of dry cleaning equipment.

The Council is required to evaluate the program at least every five years, based on criteria developed by the Council. The Council submitted reports to the Governor and Legislature in December of 2001, 2006, and 2011. The Council's

2011 report included recommendations for the following statutory changes: (a) direct DOR to publish a quarterly list of all licensed dry cleaners, along with whether their license is current or delinquent; (b) forgive the environmental improvement fund loan to the dry cleaner environmental response fund; and (c) authorize DNR to directly spend DERP funds for immediate and emergency actions at eligible dry cleaner properties. In addition, the Council recommended that a study of alternative funding mechanisms for the dry cleaner environmental response program be undertaken, but did not recommend who should perform the study. The next Council report is due to the Governor and Legislature by December, 2016.

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## **Funding for DNR Administration**

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### **Staff Levels**

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

In 2014-15, DNR has 109.95 staff and appropriations of \$10.8 million in the remediation and redevelopment program for administration of contaminated land and brownfields cleanup programs. Table 9 shows the number of staff and funding by funding source.

In addition, administrative or support functions are performed by divisionwide staff in the

**Table 9: Authorized Staff and Administrative Appropriations for DNR's Bureau for Remediation and Redevelopment and Regional Remediation and Redevelopment Staff -- 2014-15**

Funding Source	Permanent Positions	Appropriation
<b>General Fund</b>		
Bureau for Remediation and Redevelopment - administration	6.00	\$533,300
<b>Federal Funds</b>		
Superfund administration	6.00	690,000
Leaking underground storage tank administration	13.50	1,094,400
Brownfields administration	14.00	1,017,800
Hazardous waste administration	1.50	235,500
Other Federal funds	1.00	103,500
<b>Segregated Funds</b>		
Environmental Management Account – remediation and redevelopment and brownfields administration	22.50	2,217,700
Petroleum Inspection Fund - PECFA and brownfields administration	31.95	3,425,400
Dry Cleaner Environmental Response Fund – administration	2.00	180,600
<b>Program Revenue</b>		
Purchaser liability and remediated property fees	9.00	887,200
Solid and hazardous waste administration	2.50	195,200
Department of Transportation contract	<u>0.00</u>	<u>235,000</u>
<b>Total</b>	109.95	\$10,815,600

Division of Air, Waste, and Remediation and Redevelopment, and by staff in the Divisions of Enforcement and Science, Administration and Technology and Customer and Employee Services.

**Funding Sources**

*General Fund.* The remediation and redevelopment program is authorized 6.0 positions from general purpose revenues (GPR) in 2014-15.

*Federal Funds.* DNR receives grants from the U.S. Environmental Protection Agency for costs associated with administering Superfund, leaking underground storage tanks (LUST), brownfields, and hazardous waste programs. Federal funds support 36.0 positions in the program in 2014-15. This includes 6.5 LUST positions that were transferred from the Department of Safety and Professional Services (DSPS) with the PECFA program under 2013 Act 20.

*Segregated Funds.* The segregated environ-

mental management account of the environmental fund receives revenues primarily from several state solid waste tipping fees paid by Wisconsin landfills for each ton of solid waste disposed in the landfill. Several other environmental fees and revenues are deposited in the account. [For more information, see the Legislative Fiscal Bureau informational paper entitled, "Environmental Management Account."] The account supports 22.5 positions in the remediation and redevelopment program in 2014-15. In addition to contaminated land cleanup programs, the account supports recycling programs and programs in other agencies.

The petroleum inspection fund receives revenues from a petroleum inspection fee of 2¢ per gallon assessed on all petroleum products brought into the state. [For more information, see the Legislative Fiscal Bureau informational paper entitled, "Petroleum Environmental Cleanup Fund Award (PECFA) Program."] The petroleum inspection fund supports 31.95 positions in the remediation and redevelopment program.

This includes 15.2 positions transferred from DSPS with the PECFA program.

The dry cleaner environmental response fund is described in the earlier section related to the dry cleaner environmental response program.

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

Administrative rule NR 750, effective March 1, 1996, includes a system of hourly fees to be paid by a voluntary party who seeks an exemption from liability or limit on future remediation costs. The initial fees include a non-refundable application fee of \$250 and an advance deposit to cover DNR oversight and review, which is \$2,000 if the property is less than one acre or \$4,000 if the property is one acre or greater. DNR must return any amount in excess of DNR's oversight costs when the Department's review activities are completed. If the advance deposit is depleted and additional DNR review is needed, DNR is authorized to bill applicants quarterly according to an hourly rate based on the average hourly wages of program staff, fringe benefits and associated costs.

The hourly billing rate was \$100 per hour between July, 2009, and June, 2014. The billing rate increased to \$105 per hour in July, 2014. The hourly rate can be recalculated annually. After DNR approves a final remedial design, an applicant can choose to cover remaining DNR review costs, including DNR issuance of a certificate of completion, by either continuing quarterly billing or paying a final fee that equals 40% of the total DNR oversight costs incurred up to and including the approved final remedial design.

Administrative rule NR 749 contains a fee schedule of fixed fee amounts for a number of

services provided by DNR to persons who request certain departmental assistance. Fees authorized in NR 749 offset the costs for much of the technical and redevelopment assistance provided by DNR. Administrative rule changes effective November 1, 2013, increased several of the flat fees for the first time since they were established in September, 1998. DNR estimated the fee increase would increase revenue by approximately \$170,000 annually.

Persons who request the voluntary party exemption pay the NR 750 hourly fees instead of the NR 749 fixed fees. When a person requests that DNR review certain documents, the person must pay the applicable flat fee. Beginning in November, 2013, parties may, as part of a negotiated agreement with DNR, agree to pay the hourly fees for project oversight. When the NR 700 rules require that a document be submitted to DNR, but the person does not specifically request review of the document, then no fee is required.

Examples of types of requests for which a fee is charged under NR 749 are shown in Table 10. The table shows the fee rate prior to November 1, 2013, and the fee that went into effect on November 1, 2013.

DNR is authorized base funding of \$887,200 PR and 9.0 PR positions funded from the fees in 2014-15. DNR collected cumulative revenues of \$12.2 million through June 30, 2014, for deposit in a program revenue account that funds DNR staff who administer the liability exemption provisions. DNR has also transferred a cumulative total of \$427,700 of revenue to the general fund as part of requirements in several biennial budgets for state agencies to transfer funds from program revenue accounts to the general fund. Table 11 shows revenues, expenditures and transfers to the general fund from the program revenue account in 2008-09 through 2013-14.

In 2012-13 and 2013-14, most of the fees collected were from a \$1,050 fee (formerly \$750)



**Table 10: Examples of DNR Fees for Providing Remediation Assistance**

Type of Assistance	Fee Prior to November 1, 2013	Fee as of November 1, 2013
Case closure letter - DNR's determination that, based on information available at the time of the Department's review, no further action is necessary after a site investigation and cleanup has been completed.	\$750	\$1,050
Database fee - adds a site to an online geographic information system (GIS) registry of sites approved for closure where a groundwater enforcement standard is exceeded.	250	350
Database fee - adds a site to the GIS registry of sites approved for closure with residual soil contamination.	200	300
Off-site exemption letter - DNR's determination of who is not responsible when contamination is migrating on to a property from an off-site source.	500	700
Approval of the use of site specific soil cleanup standards.	750	1,050
No further action letter - DNR's determination for a spill site where an immediate action was undertaken, that no further action is necessary.	250	350
General liability clarification - DNR's letter to clarify liability for site-specific matters related to the environmental pollution and remediation of a property.	500	700
Lender liability letter - DNR's letter to a lender explaining the potential liability associated with acquiring a contaminated property.	500	700
Negotiated agreement - a schedule for conducting non-emergency actions that DNR negotiated with a person who possesses or controls a hazardous substance that was discharged or who caused the discharge.	1,000	1,400
Other technical assistance.	500	700

for issuance of case closure letters, many of which were for PECFA-eligible petroleum-contaminated sites, and for adding sites to the online GIS registry of sites closed with a groundwater enforcement standard exceedence or with residual soil contamination.

**Table 11: Remediated Property Program Revenues and Expenditures**

Year	Revenue	Expenditures	Transfer to General Fund
2008-09	\$759,100	\$608,200	\$65,600
2009-10	741,700	746,100	79,200
2010-11	627,200	722,700	0
2011-12	728,600	547,800	46,100
2012-13	829,300	736,900	46,100
2013-14	755,100	717,200	46,100

*Waste Management Program Revenues.* The remediation and redevelopment program receives program revenues to support 2.5 positions from fees collected by the waste and materials management program. The fees come from license, plan review, and solid waste tipping fees related to landfill administration. The remediation and redevelopment program activities relate to contaminated land cleanup activities at former or active landfills.

*Department of Transportation (DOT) Program Revenues.* The remediation and redevelopment program receives revenues from the DOT related to DNR costs of review of contaminated land cleanup issues at DOT highway construction projects.

*PROGRAMS ADMINISTERED BY OTHER STATE AGENCIES*


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**Brownfields Programs of the Wisconsin Economic Development Corporation**


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The Wisconsin Economic Development Corporation (WEDC) administers various brownfields grant programs. WEDC was created as an Authority under 2011 Act 7. Prior to 2011-12, the Department of Commerce administered the brownfields grant program to provide financial assistance for brownfields redevelopment and related environmental remediation projects. Under 2011 Act 32, the Department of Commerce was repealed, and its economic development responsibilities were transferred to WEDC.

WEDC administers a brownfields grant program with funds appropriated from the segregated economic development fund. It also administers a brownfields site assessment grant program, which is appropriated \$1,000,000 SEG in each year of the 2013-15 biennium from the segregated environmental management account of the environmental fund. Under 2011 Act 32, the brownfields site assessment grant program was transferred from DNR to WEDC.

Brownfield redevelopment financial assistance program funds administered by WEDC can

be used to fund the costs of brownfields redevelopment projects or associated environmental remediation activities at sites with demonstrable soil and/or groundwater contamination. [Further information can be found in the Legislative Fiscal Bureau informational paper entitled, "Wisconsin Economic Development Corporation."]

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**Agricultural Chemical Cleanup Program**


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The Department of Agriculture, Trade and Consumer Protection (DATCP) administers the agricultural chemical cleanup program. The program provides partial reimbursement for cleanup of agricultural chemical contamination at certain fertilizer and pesticide storage sites. Cleanup reimbursements are supported by the segregated agricultural chemical cleanup program (ACCP) fund, which consists of surcharges on licenses or other fees assessed to users or producers of pesticides and fertilizers. In 2013-14, DATCP reimbursed 55 claimants a total of \$1,074,900 for cleanup activities. [Further information about the program can be found in the Legislative Fiscal Bureau informational paper entitled, "Agricultural Chemical Fees and Programs."]

## APPENDIX I

### Superfund Site Status in Wisconsin (June, 2014)

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

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

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

## APPENDIX II

### State-Funded Response Actions Funded by the Wisconsin Environmental Fund as of June 30, 2014

#### **Adams**

Easton Store (Former)

#### **Ashland**

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

#### **Barron**

Lemler Landfill  
Rice Lake Landfill

#### **Bayfield**

Barksdale Dump

#### **Brown**

Ambrosius Property  
Ashwaubenon Boardwalk  
Better Brite – Chrome Shop  
Better Brite – Zinc Shop  
H&R Paper & Refuse Service  
R L O’Keefe & Sons  
Scray’s Hill

#### **Burnett**

Penta Wood Products  
Piotrowski Property  
Webster Volatile Organic Compounds  
(VOC) Contamination

#### **Calumet**

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

#### **Chippewa**

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

#### **Clark**

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

#### **Columbia**

Glacier Oil  
LaGrange Property  
Matthews Estate Property  
Nemitz Laundry  
New Pinery Road  
Portage Canal  
Rockwell of Randolph

#### **Crawford**

Bell Center Landfill

#### **Dane**

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

#### **Dodge**

Davy Creek  
Gardner Manufacturing (Former)  
Hechimovich Landfill  
Mayville Iron & Coke  
Oconomowoc Electroplating  
Watertown Tire Fire

#### **Door**

Door County Cooperative

#### **Douglas**

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

#### **Dunn**

Lentz Fertilizer Pesticide

#### **Eau Claire**

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

#### **Fond du Lac**

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

#### **Grant**

Ellenboro Store

#### **Green**

Leck Property

#### **Iowa**

Dodgeville Waterworks  
Mineral Point Roaster Piles

#### **Jackson**

Home Oil  
Melrose Well #3  
Merrillan Water Supply

#### **Jefferson**

Else Property  
Sanitary Transfer & Landfill

#### **Juneau**

Hustler Hardware

#### **Kenosha**

Chrysler Kenosha Engine  
Frost Manufacturing  
Kenosha Iron & Metals  
Mankowski Property

#### **Kewaunee**

Kewaunee Marsh

#### **La Crosse**

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

#### **Lafayette**

Champion Mine – New Diggings

#### **Langlade**

Langlade Oil

#### **Lincoln**

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

#### **Manitowoc**

Kasson Cheese Company  
Lemberger Transport & Recycling  
Manitowoc-Two Rivers Trichloroethylene  
Town of Newton Landfill  
Two Rivers Petroleum  
White Property

**Marathon**

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

**Marinette**

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

**Marquette**

Montello Lodge  
 Westfield Equipment

**Milwaukee**

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

**Monroe**

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

**Oconto**

Knoll Service Station  
 Lakewood Dx  
 Midstate Oil – Giese  
 New Lindwood

**Oneida**

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

**Outagamie**

Ahlgrimm Explosives  
 American Toy & Furniture  
 Fox Valley Steel & Wire  
 Freedom Sanitary District - IGA  
 Kaphingst Property  
 Malchow Property  
 Midwest Plating  
 N W Mauthe  
 Porter Well  
 So's Drycleaners  
 Wanglin Barrel  
 Waugamie Feed Mill  
 Wisconsin Chrome

**Ozaukee**

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

**Polk**

Amery Landfill  
 Electrocraft/Thompson Machine  
 Osceola Dam

**Portage**

Amherst Super Service

**Price**

Dragovich & Boho Sites  
 Flambeau Garage

**Racine**

Golden Books Publishing  
 Racine Brownfields Pilot  
 Rowe Oil Service  
 Tappa Property

**Richland**

Richland Center - IGA

**Rock**

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

**Saint Croix**

Junkers Landfill  
 Troutbrook Parkview Estates  
 Warren TCE Investigation

**Sauk**

Circus City Cleaners

**Sawyer**

Ackley Amoco  
 Price Rite Liquor

**Sheboygan**

Oostburg - IGA  
 Sheboygan River & Harbor

**Taylor**

Doberstein Lumber & Fence  
 Donald Store  
 Scrap Processing  
 Webster Pig Farm

**Trempealeau**

Arcadia Water Supply

**Vernon**

Viroqua Well  
 Westby Dry Cleaners

**Vilas**

Bitinas Phillips 66 Station  
 C.M. Christiansen

**Walworth**

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

**Washburn**

Beaver Brook/Fairgrounds  
 Blue Bonnet Trust Site Springbrook  
 Dennis Salvage  
 Mortensen Enterprises  
 Norm's Mobil Saron

**Washington**

Town of Jackson Garage  
 West Bend Water Supply

**Waukesha**

Barrett Landfill  
 Delafield Landfill  
 Super Excavators  
 Waukesha West Ave. Landfill

**Waupaca**

J & J Cleaners – Waupaca Well #4  
 Peterson Petroleum

**Waushara**

Union State Bank

**Winnebago**

American Quality Fibers  
 Barth Property  
 Donaldson's 1 Hour Cleaners  
 Fox Valley Laundries  
 Fox River Risk Assessment  
 Moder Well  
 Nonweiler Property  
 Oshkosh Industries (Buckstaff)  
 Oshkosh Northwestern  
 Panzen Transfer  
 Shilobrit Dry Cleaners, Neenah  
 Shilobrit Dry Cleaners, Oshkosh

**Wood**

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

**DNR Northern Region**

Clandestine Methcathinone (CAT)  
Labs

**Statewide**

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

IGA = Intergovernmental Agreement