CHAPTER 287

SOLID WASTE REDUCTION, RECOVERY AND RECYCLING

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Cross−reference: See also chs. NR 185, 186, and 540, Wis. adm. code.

SUBCHAPTER I

GENERAL

287.01 Definitions. Except as otherwise provided, in this chapter:

(1) "Department" means the department of natural resources.

(2) "Foam polystyrene packaging" means packaging made primarily from foam polystyrene that satisfies one of the following criteria:

(a) Is designed for serving food or beverages.

(b) Consists of loose particles intended to fill space and cushion the packaged article in a shipping container.

(c) Consists of rigid materials shaped to hold and cushion the packaged article in a shipping container.

(2m) "Land spreading facility" means a solid waste disposal facility in which solid waste is placed in thin layers onto the surface of the land or incorporated into the surface layers of the soil.

(3) "Major appliance" means a residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, microwave oven, oven, refrigerator, furnace, boiler, dehumidifier, water heater or stove.

(4) "Municipality" means a city, village or town.

(5m) "Person" includes any individual, corporation, limited liability company, partnership, association, local governmental unit, as defined in s. 66.0131 (1) (a), state agency or authority or federal agency.

(6) "Plastic container" means a plastic container, as defined in s. 100.33 (1) (c), that is required to be labeled under s. 100.33 (2).

(7) "Postconsumer waste" means solid waste other than solid waste generated in the production of goods, hazardous waste, as defined in s. 291.01 (7), waste from construction and demolition of structures, scrap automobiles, or high−volume industrial waste, as defined in s. 289.01 (17).

(8) "Region" means the area within the boundaries of a responsible unit.

(8m) "Resource recovery" means the conversion of solid waste into fuel or energy.

(9) "Responsible unit" means a municipality, county, another unit of government, including a federally recognized Indian tribe or band in this state, or solid waste management system under s. 59.70 (2), that is designated under s. 287.09 (1).

(10) "Solid waste" has the meaning given in s. 289.01 (33).

(11) "Solid waste disposal" has the meaning given in s. 289.01 (34).

(12) "Solid waste facility" has the meaning given in s. 289.01 (35).

(13) "Solid waste management" means planning, organizing, financing, and implementing programs to effect the storage, collection, transporting, processing, recycling or final disposal of solid wastes in a sanitary, nuisance−free manner.

(14) "Solid waste management plan" means a plan prepared to provide for solid waste management.

(15) "Solid waste storage" has the meaning given in s. 289.01 (38).

(16) "Solid waste treatment" has the meaning given in s. 289.01 (39).

(17) "Yard waste" means leaves, grass clippings, yard and garden debris and brush, including clean woody vegetative material no greater than 6 inches in diameter. This term does not include stumps, roots or shrubs with intact root balls.

History: 1989 a. 335 ss. 59, 66b, 76; 1991 a. 269; 1993 a. 112, 245, 406, 491; 1995 a. 201; 1995 a. 227 s. 884; Stats. 1995 s. 287.01; 1997 a. 35; 1999 a. 150 s. 672; 2011 a. 32.

Under sub. (10), "solid waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded or salvageable materials . . ." Cigarette butts manifestly constitute "other discarded . . . materials." State v. Iverson, 2015 WI 101, 365 Wis. 2d 302, 871 N.W.2d 661, 14−0515.

287.03 Departmental duties and powers. (1) DUTIES. The department shall do all of the following:

(a) Promulgate rules necessary to implement this chapter.

(am) Promulgate rules concerning the imposition, under s. 285.54, of fees by municipalities on operators of medical waste incinerators.

(c) Coordinate research, technical assistance and education programs under this chapter with related activities of the University of Wisconsin System.

(2) POWERS. The department may do any of the following:

(a) Hold hearings relating to any aspect of the administration of this chapter and, in connection therewith, compel the attendance of witnesses and the production of evidence.

(b) Secure necessary scientific, technical, administrative and operational services, including laboratory facilities, by contract or otherwise.

History: 1989 a. 335; 1993 a. 75; 1995 a. 27; 1995 a. 227 s. 886; Stats. 1995 s. 287.03; 1999 a. 150 s. 672; 2001 a. 16; 2003 a. 33; 2011 a. 32.

Cross−reference: See also chs. NR 186, 540, 716, 718, 722, 724, and 726, Wis. adm. code.

287.05 State solid waste reduction, reuse, recycling, composting and resource recovery policy. The following are declared to be policies of the state concerning the reduction of the amount of solid waste generated, the reuse, recycling and composting of solid waste and resource recovery from solid waste:

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

(2) That solid waste reduction, reuse, recycling, composting and resource recovery projects should be encouraged in furtherance of these goals.

(3) That encouragement and support should be given to individuals, collectors, handlers and operators of waste facilities to separate solid waste at the source, in processing or at the time of disposal in order to facilitate reuse, recycling, composting or resource recovery.

(4) That research, development and innovation in the design, management and operation of solid waste reduction, reuse, recycling, composting and resource recovery systems and operations are necessary and should be encouraged in order to improve the processes, to lower operating costs and to provide incentives for the use of these systems and operations and their products.

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

(4s) That the burning of solid waste with energy recovery as a substitute for the burning of nonrenewable fuels, such as coal, to generate steam or electricity is in the public interest and should be encouraged, if done in a state−approved program that protects the public health and welfare and the environment.

(5) That the implementation of solid waste reduction, reuse, recycling, composting and resource recovery systems and operations requires the involvement and cooperation of all persons and entities comprising this state's society, including individuals, state and local governments, schools, private organizations and businesses. To achieve this involvement and cooperation, state government should rely to the maximum extent feasible on technical and financial assistance, education and managerial practices to implement these policies. Necessary regulations should be developed with maximum flexibility.

(6) That solid waste reduction, reuse, recycling, composting and resource recovery efforts in this state should be planned and coordinated in order to maximize beneficial results while minimizing duplication and inefficiency.

(7) That to achieve the goals in this policy statement the legislature recognizes the necessity of the state to occupy a regulatory role in this field and the necessity to give municipalities and counties certain powers to adopt waste flow control ordinances in order to require the use of recycling and resource recovery facilities.

(8) That the powers enumerated under s. 287.13 constitute proper powers consistent with uniform state policies concerning solid waste reduction, reuse, recycling, composting and resource recovery from solid waste; these powers are necessary for the safe, beneficial, economical and lawful management of solid waste; and these powers are necessary to accomplish or facilitate these uniform state policies by encouraging the financing, acquisition, construction, improvement, operation, maintenance and ownership of recycling and resource recovery facilities. The powers enumerated under s. 287.13 constitute proper powers consistent with essential and legitimate governmental functions; and these powers are to be utilized in providing for the health, safety and welfare of and providing services and benefits for inhabitants of municipalities, counties and this state.

(9) That the state policies declared under this section and the standards, criteria, requirements and procedures established under s. 287.13 ensure that a municipality or county exercising powers under s. 287.13 acts in a manner consistent with uniform state policies and acts as an arm of the state for the public good.

(10) That solid waste reduction, reuse, recycling, composting and resource recovery systems and operations are preferable to land disposal.

(11) That developers and users of land disposal facilities should not become overly committed to land disposal because of the excessively long useful life of a facility or the excessive aggregate capacity of land disposal facilities so that reuse, recycling, composting and resource recovery systems and operations may be implemented rapidly without excessive disruption.

(12) That in the management of solid waste, whenever possible and practical, the state encourages the following priorities:

(a) The reduction of the amount of solid waste generated.

(b) The reuse of solid waste.

(c) The recycling of solid waste.

(d) The composting of solid waste.

(e) The recovery of energy from solid waste.

(f) The land disposal of solid waste.

(g) The burning of solid waste without energy recovery.

History: 1983 a. 27, 93, 425, 426; 1989 a. 335 ss. 52, 54 to 56, 76; Stats. 1989 s. 159.05; 1995 a. 227 s. 887; Stats. 1995 s. 287.05.

Cross−reference: See also chs. NR 540 and 722, Wis. adm. code.

SUBCHAPTER II

SOLID WASTE REDUCTION, RECOVERY AND RECYCLING

287.07 Prohibitions on land disposal and incineration.

(1m) BATTERIES, MAJOR APPLIANCES AND OIL. No person may:

(a) Dispose of a lead acid battery or a major appliance in a solid waste disposal facility in this state, except that a person may dispose of a microwave oven in a solid waste disposal facility in this state if the capacitor has been removed and disposed of in accordance with s. 299.45 (7), if applicable.

(am) Burn a lead acid battery or a major appliance in a solid waste treatment facility in this state.

(b) Dispose of waste oil in a solid waste disposal facility or burn waste oil without energy recovery in a solid waste treatment facility in this state.

(2) YARD WASTE. Beginning on January 3, 1993, no person may dispose of yard waste in a solid waste disposal facility, except in a land spreading facility approved in accordance with ch. 289, or burn yard waste without energy recovery in a solid waste facility in this state.

(3) WASTE TIRES. Beginning on January 1, 1995, no person may dispose of a waste tire, as defined in s. 289.55 (1) (c), in a solid waste disposal facility or burn a waste tire without energy recovery in a solid waste treatment facility in this state.

(4) GENERAL DISPOSAL RESTRICTIONS. Beginning on January 1, 1995, no person may dispose of in a solid waste disposal facility, convert into fuel, or burn at a solid waste treatment facility in this state any of the following:

(a) An aluminum container.

(b) Corrugated paper or other container board.

(c) Foam polystyrene packaging.

(d) A glass container.

(f) A magazine or other material printed on similar paper.

(g) A newspaper or other material printed on newsprint.

(h) Office paper.

(i) A plastic container.

(j) A steel container.

(k) A container for carbonated or malt beverages that is primarily made of a combination of steel and aluminum.

(4e) GENERAL RESTRICTIONS ON PLACING IN CONTAINER. (a) Beginning on July 1, 2011, no person may place in a container the contents of which will be disposed of in a solid waste disposal facility, converted into fuel, or burned at a solid waste treatment facility any of the items identified in sub. (4) (a) to (k).

(b) Beginning on July 1, 2011, no person may place a waste tire in a container the contents of which will be disposed of in a solid waste disposal facility or burned without energy recovery in a solid waste treatment facility.

(4m) OIL FILTERS AND OIL ABSORBENT MATERIALS. (a) In this subsection:

1. "Automotive engine oil" has the meaning given in s. 287.15 (1) (a).

2. "Oil absorbent materials" means materials that are used to absorb waste oil.

3. "Oil filter" means a filter for automotive engine oil.

4. "Waste oil" means any petroleum−derived or synthetic oil that has been used or spilled.

(b) Beginning on January 1, 2011, no person may dispose of a used oil filter in a solid waste disposal facility.

(bm) Beginning on April 7, 2012, no person may dispose of oil absorbent materials containing waste oil in a solid waste disposal facility unless all of the following apply:

1. Waste oil has been drained so that no visible signs of free−flowing oil remain in or on the oil absorbent materials.

2. The oil absorbent materials are not hazardous waste, as defined in s. 289.01 (12).

(5) ELECTRONIC DEVICES. (a) Beginning on September 1, 2010, no person may dispose of in a solid waste disposal facility, burn in a solid waste treatment facility, or place in a container the contents of which will be disposed of in a solid waste disposal facility or burned in a solid waste treatment facility, any of the following devices, unless the device is of a kind exempted by a rule promulgated under s. 287.17 (10) (i):

1. A peripheral, as defined in s. 287.17 (1) (j).

3. A facsimile machine.

4. A digital video disc player.

5. A digital video player that does not use a disc and that is not a camera, as defined in s. 287.17 (1) (a).

6. A video cassette recorder.

7. A video recorder that does not use a cassette and that is not a camera, as defined in s. 287.17 (1) (a).

8. A covered electronic device, as defined in s. 287.17 (1) (f).

9. A telephone with a video display.

10. Another kind of electronic device identified by the department under s. 287.17 (10) (i).

(b) The operator of a solid waste disposal facility or a solid waste treatment facility shall make a reasonable effort to manually separate, and arrange to have recycled, a consumer video display device, as defined in s. 287.17 (1) (em), that is readily observable in solid waste that is delivered to the facility for disposal or burning unless the operator determines that one of the following applies:

1. Separating the device is not practical or would require the operator to implement measures to protect human health or safety in addition to any measures taken in the ordinary course of business.

2. The device has been damaged in such a way that recycling is not feasible or practical.

(7) EXCEPTIONS. (a) The prohibitions in subs. (3) and (4) do not apply with respect to solid waste, except medical waste, as defined in par. (c) 1. cg., that is generated in a region that has an effective recycling program, as determined under s. 287.11. This paragraph does not apply to solid waste that is separated for recycling as part of an effective recycling program under s. 287.11.

(b) 1. In this paragraph:

a. "Current service area" means the area served by a solid waste treatment facility under a contract that is in effect on January 1, 1993, and has a term of at least one year.

b. "Operating solid waste treatment facility" means a solid waste treatment facility that has an operating permit or license issued under s. 285.60 or 289.31 prior to May 11, 1990, except for a medical waste incinerator, as defined in par. (c) 1. cr.

2. A prohibition in sub. (3) or (4) (b), (c), (f), (g), (h) or (i) does not apply to a person who converts into fuel or burns at an operating solid waste treatment facility a type of material identified in one of those paragraphs that was converted into fuel or burned at the operating solid waste treatment facility during April, 1990, and either is generated in the operating solid waste treatment facility's current service area or is generated by the owner of the operating solid waste treatment facility.

3. The prohibitions in subs. (3) and (4) do not apply to a person who converts into fuel or burns at an operating solid waste treatment facility any material identified in those subsections if the person converted into fuel or burned the material at the operating solid waste treatment facility during April, 1990, and the material is generated outside of this state.

(bg) The prohibitions in subs. (1m) to (4) do not apply to a person who burns solid waste at a facility that uses solid waste as a supplemental fuel if less than 30 percent of heat input to the facility is derived from the solid waste burned as supplemental fuel.

(c) 1. In this paragraph:

a. "Clinic" means a place, other than a residence, that is used primarily for the provision of nursing, medical, podiatric, dental, chiropractic, optometric or veterinary care and treatment.

b. "Hospital" has the meaning given in s. 50.33 (2).

c. "Infectious waste" means solid waste that contains pathogens with sufficient virulence and in sufficient quantity that exposure of a susceptible human or animal to the solid waste could cause the human or animal to contract an infectious disease.

cg. "Medical waste" means containers, packages and materials identified under sub. (4) that contain infectious waste or that are from a treatment area and are mixed with infectious waste.

cr. "Medical waste incinerator" means a solid waste treatment facility that primarily burns infectious waste and other waste that contains or may be mixed with infectious waste.

d. "Nursing home" has the meaning given in s. 50.01 (3).

e. "Treatment area" means a room or area in a hospital or clinic the primary use of which is to provide emergency care, diagnosis or radiological treatment; an obstetrics delivery room in a hospital, other than a patient's room; or a room or area in a hospital, clinic or nursing home, identified by the department by rule, in which infectious waste is generated.

2. The prohibitions in subs. (4) and (4e) do not apply with respect to any of the following:

a. The burning of medical waste in a medical waste incinerator or other incinerator approved by the department to accept and burn medical waste, except as provided in subd. 3.

b. The disposal of, in a solid waste disposal facility, or the placing of, in a container the contents of which will be disposed of in a solid waste facility, a container, package or material identified under sub. (4) that contained infectious waste or that is from a treatment area and is mixed with infectious waste generated in the treatment area, if the container, package or material has been

treated, pursuant to standards established under ch. 289, to render the infectious waste noninfectious.

3. A person may not burn medical waste at a medical waste incinerator unless the person complies with s. 285.53 (1), if applicable, and obtains from each generator of the medical waste a copy of the policies under sub. (8) (a) and the annual assessment under sub. (8) (b).

(cm) The prohibition in sub. (2) does not apply to the disposal of plants that are classified by the department as invasive species under s. 23.22 (2) or their seeds, if the plants or seeds are not commingled with other yard waste.

(d) The department may grant, to a responsible unit, an exception to a prohibition in sub. (3) or (4) for up to one year for a material identified in sub. (3) or (4) in the event of an unexpected emergency condition.

(e) The department may grant a waiver to the prohibition in sub. (2) to allow the burning of brush or other clean woody vegetative material that is no greater than 6 inches in diameter at wood burning facilities that are licensed or permitted under chs. 281, 285 and 289 to 299 under conditions established by the department relating to the feasibility of complying with the prohibition in sub. (2).

(f) The prohibitions in subs. (2) to (4) do not apply to the beneficial reuse of a material within a solid waste disposal facility if the beneficial reuse of the material is approved in the solid waste disposal facility's plan of operation under s. 289.30.

(g) 1. Except as provided in subd. 2., the department may grant a waiver or conditional waiver to a restriction in sub. (3) or (4) if all of the following apply:

a. The applicant shows to the satisfaction of the department that the recyclable material has been contaminated and cannot feasibly be cleaned for recycling.

b. The department determines that granting the waiver or conditional waiver will not impede progress toward meeting the goals of the state solid waste policy under s. 287.05.

2. The department may not grant a waiver or a conditional waiver under subd. 1. for material that has been intentionally or negligently contaminated.

(h) 1. The department may grant a waiver or conditional waiver to a restriction under sub. (4) (c) or (i) for plastics other than polyethylene terephthalate or high−density polyethylene if the department determines all of the following:

a. Recycling of the material is not feasible or practical in light of current markets or available technologies.

b. Granting the waiver or conditional waiver will not impede progress toward meeting the goals of the state solid waste policy under s. 287.05.

2. A waiver or conditional waiver under this paragraph shall continue in effect until one year after the department determines that a condition under subd. 1. a. or b. is no longer met.

(8) MEDICAL WASTE SOURCE REDUCTION POLICY. (a) A generator of medical waste that sends waste to a medical waste incinerator shall develop policies concerning reduction of medical waste, as defined in sub. (7) (c) 1. cg., including all of the following:

1. Education and training of staff.

2. Alternatives, including sterilization, to the use of disposable equipment.

3. An annual assessment of the medical waste source reduction policy.

(b) The generator shall submit the source reduction policy and the annual assessment to the operator of the medical waste incinerator.

(c) The operator of the medical waste incinerator shall retain a copy of the source reduction policy and the annual assessment and provide it to the department upon request. The department may analyze and disseminate the information that it obtains under this paragraph.

(d) The department may charge a fee for the analysis of a source reduction policy and assessment.

History: 1989 a. 335 ss. 66e, 76; 1991 a. 32, 269, 300; 1993 a. 245, 419; 1995 a. 27, 142; 1995 a. 227 s. 889; Stats. 1995 s. 287.07; 1997 a. 27; 2009 a. 50, 55, 86; 2011 a. 32, 152; 2013 a. 168.

Note: The 7th circuit court of appeals in National Solid Waste Management Assn. v. Meyer, 165 F.3d 1151 (1999), held unconstitutional the requirement that out−of−state waste may not be disposed of in this state unless the originating community enacts an ordinance in compliance with Wisconsin's recycling program.

Cross−reference: See also chs. NR 526 and 544, Wis. adm. code.

287.08 Yard waste bags. After December 31, 1990, no person may discharge, deposit, inject, dump or place in a solid waste facility that is for solid waste treatment or for solid waste storage yard waste that is in a bag unless the bag is constructed of a material that decomposes within a reasonable time after exposure to weather elements and is labeled as being so constructed.

History: 1989 a. 335; 1995 a. 227 s. 890; Stats. 1995 s. 287.08.

287.09 Municipal and county duties and powers. (1) DESIGNATION OF RESPONSIBLE UNITS. (a) Except as provided in pars. (b) to (d), each municipality is a responsible unit.

(b) A county board of supervisors may adopt a resolution designating the county a responsible unit. Except as provided in pars. (c) and (d), a county that has adopted such a resolution is the responsible unit for the entire county.

(c) Within 90 days after the county board of supervisors adopts a resolution under par. (b), the governing body of a municipality that is located in part or in whole in the county may adopt a resolution retaining the municipality's status as a responsible unit.

(d) The governing body of a responsible unit designated under par. (a), (b) or (c) may by contract under s. 66.0301 designate another unit of government, including a federally recognized Indian tribe or band in this state, or a solid waste management system created under s. 59.70 (2) to be the responsible unit in lieu of the responsible unit designated under par. (a), (b) or (c). The contract shall cover all functions required under sub. (2), including provisions for financing and enforcing the recycling or other solid waste management program.

(e) The governing body of a county that adopts a resolution under par. (b) or enters into a contract under par. (d) shall submit a copy of the resolution or contract to the department and to the clerk of each municipality in the county, within 30 days after adoption of the resolution or the signing of the contract. The governing body of a municipality that adopts a resolution under par. (c) or enters into a contract under par. (d) shall submit a copy of the resolution or contract to the department and to the clerk of the county in which the municipality is located, within 30 days after adoption of the resolution or the signing of the contract.

(2) DUTIES. Each responsible unit shall do all of the following:

(a) Develop and implement a recycling or other program to manage the solid waste generated within its region in compliance with s. 287.07 (1m) to (4) and the priorities under s. 287.05 (12).

(ar) Beginning on February 1, 2010, provide information to persons in its region about the prohibitions under s. 287.07 (5) (a), why it is important to recycle electronic devices, and opportunities available to those persons for recycling electronic devices.

(b) Submit to the department by January 1, 1993, a report setting forth how the responsible unit intends to implement its program under par. (a), as it relates to the requirements of s. 287.07 (3) and (4). The report shall specify all of the following:

1. Whether the responsible unit or another person designated under sub. (3) (a) will implement each component of the program under par. (a).

2. The procedures or processes that the responsible unit intends to use to separate, collect, store, process and market solid waste or components of solid waste and to educate the public on the program.

2m. The procedures or processes that the responsible unit intends to use to manage solid waste that is not separated for

recovery or recycling, consistent with the priorities under s. 287.05 (12).

3. A schedule for the implementation of the program.

(c) Provide information requested by the department on the status of the implementation of the program under par. (a).

(3) POWERS. A responsible unit may do any of the following:

(a) Designate one or more other persons to implement specific components of the program under sub. (2) (a), if the designated person consents to the designation.

(b) Adopt an ordinance to enforce the program established under sub. (2) (a). The ordinance may include a schedule of forfeitures to be imposed for violations of that ordinance. The ordinance may authorize the responsible unit or person designated under par. (a) to refuse to accept solid waste at the recycling facility or site if the solid waste is a container for an industrial pesticide, as defined in s. 94.681 (1) (b), or a nonhousehold pesticide, as defined in s. 94.681 (1) (c), is contaminated or is otherwise in a condition that makes recycling infeasible. The ordinance may require a person to use a facility for the recycling of solid waste or for the recovery of resources from solid waste, as defined in s. 287.13 (1) (d), only as provided under s. 287.13.

History: 1989 a. 335, 359; 1993 a. 116, 406; 1995 a. 201; 1995 a. 227 s. 891; Stats. 1995 s. 287.09; 1997 a. 27; 1999 a. 150 s. 672; 2009 a. 50.

Cross−reference: See also ch. NR 544, Wis. adm. code.

Section 59.07 (135) (L) [now s. 59.70 (2) (L)] authorizes counties that are "responsible units of government" under s. 159.01 [now s. 287.01] to levy taxes for capital and operating expenses incurred in the operation of the county's recycling program only upon local governments that are not "responsible units of government." Counties may levy taxes for both operating and capital expenses incurred in connection with any other form of solid waste management activity only on local governments participating in that activity. 80 Atty. Gen. 312.

Chapter 287 provides no authority for a local municipal member of a county responsible unit (RU) to leave the RU more than 90 days after the date that the RU was formed or for a county RU to dissolve. Neither the Department of Natural Resources nor county or local governments may establish such procedures through rulemaking or ordinance. An RU may, however, contract with other permissible entities for the handling of its waste management obligations pursuant to sub. (1) (d). OAG 8−14.

287.093 Lien of recycling fees. (1) In this section:

(a) "Recycling fee" means any of the following:

1. Any special assessment or special charge levied under any authority by a responsible unit for the purpose of complying with s. 287.09 (2).

2. Any charge made under any authority by any person acting under a contract with a responsible unit to provide a service required under s. 287.09 (2).

(b) "Responsible unit" has the meaning given in s. 287.01 (9).

(c) "Taxation district" has the meaning given in s. 74.01 (6).

(2) Any recycling fee which remains unpaid is a lien on the property against which it is levied or made on behalf of the responsible unit or person charging the recycling fee, from the date of the charge, to the same extent as a lien for a tax levied upon real property. Any unpaid recycling fee shall be certified to the taxation district in which the property is located, placed on the tax roll and collected as delinquent real property taxes are collected.

(3) The treasurer of the taxation district shall disburse to the proper responsible unit or person all collections of unpaid recycling fees which were placed upon the tax roll under sub. (2).

(4) Subsections (1) to (3) do not authorize a responsible unit to impose a restriction, tax or fee on packaging for a purpose relating to the disposal of the packaging.

History: 1989 a. 335; 1991 a. 39; 1995 a. 227; 1999 a. 150 s. 538; Stats. 1999 s. 287.093.

287.095 Responsible unit liability. (1) DEFINITION. In this section, "responsible unit official" means any officer, official, agent or employee of a responsible unit engaged in the planning, management, operation or approval of a recycling program or recycling site or facility.

(2) EXEMPTION FROM LIABILITY. No responsible unit official is liable for civil damages as a result of good faith actions taken by the responsible unit official within the scope of duties relating to the responsible unit's recycling program or recycling site or facility.

History: 1989 a. 335; 1995 a. 227 s. 892; Stats. 1995 s. 287.095.

287.10 Limit on local regulation. No responsible unit that accepts funds under s. 287.23 or county or municipality located within such a responsible unit may impose a restriction, except one that is consistent with this chapter or ch. 100, or a tax or fee on the sale or distribution of packaging for a purpose relating to the disposal of the packaging.

History: 1989 a. 335; 1995 a. 227 s. 893; Stats. 1995 s. 287.10.

287.11 Effective recycling programs. (1) DEPARTMENT REVIEW. Upon request of a responsible unit, the department shall review documentation of the responsible unit's solid waste management program created under s. 287.09 (2) (a) and determine whether the program is an effective recycling program. The department shall complete its review and make a determination within 90 days after receiving the documentation.

(2) EFFECTIVE PROGRAM CRITERIA FOR RESPONSIBLE UNITS. A responsible unit's solid waste management program is an effective recycling program if it includes all of the following:

(a) A public education component to inform residents of the region of the reasons to recycle, local opportunities to recycle and the prohibitions in s. 287.07 (3) and (4).

(b) A requirement that the occupants of single−family residences, buildings containing 2 or more dwelling units and commercial, retail, industrial and governmental facilities in the region separate the materials identified in s. 287.07 (3) and (4) from postconsumer waste generated in the region.

(c) A requirement that owners of buildings containing 5 or more dwelling units in the region do all of the following:

1. Provide adequate, separate containers for the program established under par. (b).

2. Notify tenants at the time of renting or leasing the dwelling and semiannually thereafter of the programs under this paragraph and par. (b).

3. Provide for the collection of recyclable materials separated from solid waste by the tenants and the delivery of the recyclable materials to a recycling facility.

(d) A requirement that owners of commercial, retail, industrial and governmental facilities in the region do all of the following:

1. Provide adequate, separate containers for the program established under par. (b).

2. Regularly notify all users and occupants of the facilities of the programs under this paragraph and par. (b).

3. Provide for the collection of recyclable materials separated from solid waste by the users and occupants and the delivery of the recyclable materials to a recycling facility.

(e) A system for collecting from single−family residences in the region any materials separated pursuant to par. (b).

(em) A system for the processing and marketing of recyclable materials collected by the responsible unit or by municipalities located in the responsible unit.

(er) A prohibition on disposing of in a solid waste disposal facility or burning in a solid waste treatment facility any material identified under s. 287.07 (3) and (4) that is separated for recycling as part of the program.

(ew) Provisions for the management of postconsumer waste that is not separated for recycling or recovery under par. (b) consistent with the highest feasible priority under s. 287.05 (12).

(f) Other provisions established by the department by rule.

(g) Adequate enforcement of the programs established under pars. (b) to (f).

(h) The equipment or means necessary to implement pars. (a), (b), (e), (em) and (g), including contracts for service, staff, supplies and equipment from vendors.

(i) A reasonable effort, through the implementation of pars. (a) to (h), as applicable, to reduce to the maximum extent feasible the

amount, by weight, of each material specified in s. 287.07 (3) and (4) that is generated as solid waste within the region and disposed of in a solid waste disposal facility or converted into fuel or burned without energy recovery in a solid waste treatment facility.

(2m) VARIANCE. (a) In this subsection:

1. "Cost of disposing of processed material" means the gross cost of transferring processed material to a solid waste disposal facility and disposing of the processed material in the facility, including any disposal costs not paid through fees charged by the facility.

2. "Cost of selling processed material" means the net cost, including any storage costs, of selling processed material to a broker, dealer, or manufacturing facility, plus any cost of transporting the processed material from the waste processing facility to the destination specified by the broker, dealer, or manufacturing facility, less the portion of any state financial assistance received under s. 287.23 attributable to the processed material.

3. "Processed material" means a component of solid waste that has been collected, transported to a waste processing facility and prepared for sale to a broker, dealer or manufacturer.

(b) The department shall, at the request of a responsible unit that has been determined to have an effective recycling program under this section, grant a variance to the applicable requirements in sub. (2) (b) and (er) for up to one year for a material identified in s. 287.07 (3) or (4) that is generated in the responsible unit's region if the department determines that the cost of selling processed material exceeds any of the following:

1. Forty dollars per ton of processed material, as annually adjusted by the department to reflect changes in price levels due to inflation since 1989.

2. The cost of disposing of processed material.

(c) The department may on its own initiative grant, to one or more responsible units that have been determined to have effective recycling programs under this section, a variance to the applicable requirements in sub. (2) (b) and (er) for up to one year for a material identified in s. 287.07 (3) or (4) that is generated in the responsible units' regions if the department determines that the cost of selling processed material exceeds the amount under par. (b) 1. or 2.

(2p) MATERIALS EXCEPTED FROM PROHIBITIONS ON LAND DISPOSAL AND INCINERATION. (a) The requirements of sub. (2) (b) and (er) do not apply to a material that is subject to an exception under s. 287.07 (7) (b), (bg) or (c) or a waiver or conditional waiver under s. 287.07 (7) (h).

(b) The requirements of sub. (2) (er) do not apply to a material that is subject to an exception under s. 287.07 (7) (f) or a waiver or conditional waiver under s. 287.07 (7) (g).

(c) The department may grant a responsible unit an exception to an applicable requirement in sub. (2) (b) or (er) for up to one year for a material that is subject to an exception under s. 287.07 (7) (d).

(d) A responsible unit may not prohibit the beneficial reuse of a material within a solid waste disposal facility if the beneficial reuse of the material is approved in the solid waste disposal facility's plan of operation under s. 289.30.

(e) A responsible unit may not prohibit the disposal in a solid waste disposal facility or the burning in a solid waste treatment facility of any material for which the department has granted a waiver or conditional waiver under s. 287.07 (7) (g).

(2s) NOTIFICATION. (a) The department shall notify the department of agriculture, trade and consumer protection whenever variances granted under sub. (2m) (b) for a plastic container, foam polystyrene packaging or any type of packaging that contains carbonated or malt beverages are in effect for responsible units representing 25 percent or more of the state's population.

(b) The department shall notify the department of agriculture, trade and consumer protection if, within 2 years after providing notification under par. (a) for a packaging material, the condition under par. (a) no longer exists for that packaging material.

(3) LIST. The department shall prepare and periodically update a list of responsible units that have an effective recycling program.

History: 1989 a. 335, 359; 1993 a. 245, 345; 1995 a. 142; 1995 a. 227 s. 894; Stats. 1995 s. 287.11; 1997 a. 27, 60; 1999 a. 9; 2001 a. 16; 2003 a. 321; 2011 a. 32; 2013 a. 166.

Note: The 7th circuit court of appeals in National Solid Waste Management Assn. v. Meyer, 165 F.3d 1151 (1999), held unconstitutional the requirement that out−of−state waste may not be disposed of in this state unless the originating community enacts an ordinance in compliance with Wisconsin's recycling program.

Cross−reference: See also chs. NR 542 and 544, Wis. adm. code.

287.13 Municipal waste flow control; required use of recycling or resource recovery facility. (1) DEFINITIONS. In this section:

(b) "Collection" means the aggregating of solid waste from its primary source and includes all activities up to such time as the waste is delivered to a facility for transfer, processing or disposal.

(d) "Facilities for the recycling of solid waste or for the recovery of resources from solid waste" means facilities the primary use of which is to convert or recycle solid waste into usable materials, products or energy or to incinerate solid waste for energy recovery.

(e) "Municipality" means a county, a city, a village or a town if the town has a population of 10,000 or more. Notwithstanding the fact that the population of a town is less than 10,000, if the town enters into an agreement with a city or village concerning the establishment of a facility for the recycling of solid waste or for the recovery of resources from solid waste and concerning the required use of that facility, the town shall be considered a municipality except the town may not be the municipality responsible for a facility.

(f) "Local unit of government" includes a county, city, village, town, school district, county utility district, sanitary district or metropolitan sewerage district.

(g) "Person" includes individuals, partnerships, associations, limited liability companies, corporations and local units of government.

(h) "Recycling" means the transfer, transporting, processing, marketing and conversion of solid wastes into usable materials or products and includes the stockpiling and disposal of nonusable portions of solid wastes, but does not include the collection of solid wastes.

(i) "Sewage or industrial waste sludge" means the residue material resulting from the treatment of sewage or industrial waste water.

(2) REQUIRED USE; IMPLEMENTATION PROCEDURE. A municipality may require any local unit of government, occupant of a single−family or multifamily residence, retail business, commercial business or industry to use a facility for the recycling of solid waste or for the recovery of resources from solid waste generated within the limits of the municipality which is not exempt under sub. (5) if:

(a) The municipality adopts an initial intent resolution.

(b) The municipality prepares or arranges for the preparation of a comprehensive facility project description report and submits this report to the department.

(c) The municipality determines that required usage of the facility is in the best public interest.

(d) The facility is constructed, operated, maintained, expanded, modified and closed in compliance with this chapter and chs. 281, 285 and 289 to 299 and all necessary permits, licenses and approvals required by the department are obtained.

(e) The municipality adopts a valid solid waste flow control ordinance and issues a required use order.

(3) REQUIRED USE; JOINT IMPLEMENTATION PROCEDURE. Two or more municipalities may enter into an agreement concerning the

establishment of a facility for the recycling of solid waste or for the recovery of resources from solid waste and concerning the required use of that facility. The municipalities which enter into this type of agreement may require any local unit of government, occupant of a single−family or multifamily residence, retail business, commercial business or industry to use a facility for the recycling of solid waste or for the recovery of resources from solid waste generated within the limits of those municipalities which is not exempt under sub. (5) if:

(a) Each of the municipalities adopts an initial intent resolution.

(b) The municipality which is responsible for the facility prepares or arranges for the preparation of a comprehensive facility project description report and submits this report to the department.

(c) Each of the municipalities determines that the required use is in the best public interest.

(d) The facility is constructed, operated, maintained, expanded, modified and closed in compliance with this chapter and chs. 281, 285 and 289 to 299 and all necessary permits, licenses and approvals required by the department are obtained.

(e) Each of the municipalities adopts a valid solid waste flow control ordinance and issues a required use order.

(4) REQUIRED USE; CONFLICTS BETWEEN MUNICIPALITIES. (a) *Conflicts in nonpopulous counties*. If one municipality has a valid initial intent resolution, no other municipality may adopt an initial intent resolution or municipal waste flow control ordinance which covers the same type of solid waste generated in the same recycling or resource recovery area unless the first municipality revises its initial intent resolution or adopts a municipal waste flow control ordinance so that there is no conflict. This paragraph is not applicable to a county with a population of 500,000 or more or to any municipality in this type of county.

(b) *Conflicts in a populous county.* 1. If a city, a village or a town which is a municipality in a county with a population of 500,000 or more has a valid initial intent resolution, the county may not adopt an initial intent resolution or municipal waste flow control ordinance which covers the same type of solid waste generated in the same recycling or resource recovery area unless the city, a village or a town which is a municipality revises its initial intent resolution or adopts a municipal waste flow control ordinance so that there is no conflict.

2. An initial intent resolution for a county with a population of 500,000 or more is not valid for a city, a village or a town which is a municipality in that county if the city, a village or a town which is a municipality adopts a resolution of refusal to participate in a county waste flow control program within 6 weeks after the county initial intent resolution is adopted and if the city, a village or a town which is a municipality adopts an initial intent resolution of its own within 3 months after the county initial intent resolution is adopted.

(5) EXEMPTION FOR CERTAIN SOLID WASTES. A municipality may not require the use of a facility for:

(a) Solid waste produced by a retail business, commercial business or industry which is privately processed and reused.

(b) Solid waste consisting of scrap, new material or used material which is separated from other waste for sale, reuse or recycling.

(c) Solid waste from a single−family dwelling which is disposed of on or held for disposal on land surrounding the dwelling by a person who owns or leases and occupies the dwelling and owns or leases the surrounding land.

(d) Solid waste which is sewage or industrial waste sludge.

(e) Solid waste produced by a commercial business or industry which is disposed of or held for disposal in an approved facility, as defined under s. 289.01 (3), or a mining waste site, as defined in s. 295.41 (31), covered by a mining permit under s. 295.58, owned or leased by the generator or on which the generator holds an easement and designed and constructed for the purpose of accepting that type of solid waste.

(f) Solid waste received and processed by a recycling or resource recovery facility which exists on January 1, 1984, or for which a feasibility report, a permit application or other application is submitted to the department on or before January 1, 1984.

(g) Solid waste generated within a town if the town voluntarily has entered into an agreement or contract with a city or village for the recycling or the recovery of resources from these wastes and if the city or village has adopted a waste flow control ordinance or if the facility operated by the city or village may receive waste under par. (f).

(h) Solid waste which is a type of waste which the municipality determines is unsuitable for recycling or resource recovery at the facility.

(i) Solid waste that consists of eligible electronic devices, as defined in s. 287.17 (1) (gs), used by households or schools.

(6) INITIAL INTENT RESOLUTION. A municipality may adopt an initial intent resolution at any time except as provided under sub. (4) and except that a municipality may not adopt more than one initial intent resolution covering a specific recycling or resource recovery service area within a 10−year period. An initial intent resolution remains valid only if a comprehensive facility project description report is submitted within 2 years after that resolution is adopted and if a municipal waste flow control ordinance is adopted within 5 years after that resolution is adopted. An initial intent resolution shall include:

(a) A statement of the municipality's intention to establish or utilize or to contract for the establishment or utilization of a facility for the recycling of solid waste or for the recovery of resources from solid waste or, if the municipality enters into an agreement under sub. (3) but is not the responsible municipality, a statement of the municipality's intention to participate in that project.

(b) A statement of the municipality's intention to adopt a solid waste flow control ordinance.

(c) A description of the types of solid waste which may be subject to the ordinance.

(d) A description of the anticipated recycling or resource recovery area which may be subject to the ordinance.

(7) COMPREHENSIVE FACILITY PROJECT DESCRIPTION REPORT. After an initial intent resolution is adopted and prior to the adoption of a waste flow control ordinance, the responsible municipality is required to prepare or arrange for the preparation of a comprehensive facility project description report and submit it to the department for review in order to assess the environmental regulatory permits, licenses and approvals required for the facility and to determine the acceptability of the proposed effective period. At a minimum, this report shall include:

(a) A detailed description of the proposed facility for the recycling of solid waste or for the recovery of resources from solid waste, including details on facility size and location, preliminary engineering design plans, a study of the required waste quantities and waste composition and a detailed report of the facility anticipated capital and operating costs.

(b) A detailed description of methods for transporting solid wastes to the facility including transportation routes, transfer facilities and estimates on proposed collection, storage, transportation and residual disposal costs.

(c) An identification of energy or material markets; a project timetable and implementation schedule; an identification of parties responsible for facility procurement; and a summary of the tipping fee, schedule of rates and other charges required for facility implementation.

(d) An identification of the quantity, composition and types of solid waste to be processed at the proposed facility for the recycling of solid waste or for the recovery of resources from solid waste, an identification of the quantity, composition and types of solid waste in the municipality which are not to be processed at

that facility, plans for the treatment or disposal of this residual solid waste and a summary of the economic and environmental impacts of the reduction in volume or the change in characteristics of the residual solid waste on existing solid waste treatment and disposal facilities serving the recycling or resource recovery area.

(e) The proposed effective period for any municipal waste flow control ordinance adopted for the facility. The department shall determine if the proposed effective period is acceptable based upon all of the following:

1. The expected life of the facility.

2. The length of time required to finance the capital cost of the facility.

3. The potential for the development of improved or alternate methods or technology for the recycling or the recovery of resources from the types of solid waste to be processed at the facility.

(7m) AMENDMENT OF RESOLUTION OR REPORT. A municipality may amend an initial intent resolution adopted under sub. (6) or a comprehensive facility project description report prepared under sub. (7) before the adoption of the municipal waste flow control ordinance. If the amendment is adopted after the public hearing under sub. (9), the municipality shall publish a notice of the amendment and the opportunity for a hearing, and shall conduct a public hearing if requested by 6 or more residents of the municipality. After the public hearing, or after the deadline for requesting a hearing if none is requested, the municipality shall issue a modified determination concerning best public interest under sub. (8) and any person adversely affected by the municipality's modified determination concerning best public interest may appeal the determination under ch. 68.

(8) BEST PUBLIC INTEREST; CRITERIA. A municipality may determine that a required usage is in the best public interest if it finds the:

(a) Required use will result in reuse or recovery of material from solid waste.

(b) Required use will lessen the demand for solid waste disposal facilities.

(c) Required use will conserve natural resources or energy.

(d) Required use is necessary to obtain the type and quantity of solid waste necessary for operational volumes needed to make the facility economically feasible.

(e) Alternatives to required use which may be used to obtain the necessary type and quantity of solid waste have been compiled, analyzed and considered.

(f) Required use is consistent with planning efforts of the municipality.

(h) Operation of the facility is technically feasible and will not result in significant adverse environmental impacts based upon a comprehensive facility project description report prepared under sub. (7).

(i) Required use and operation of the facility will be responsive to the extent feasible with legitimate public concerns expressed at the public hearing under sub. (9).

(j) Construction, operation, maintenance, expansion, modification and closure of the facility will comply with chs. 281, 285 and 289 to 299 and all permits, licenses and approvals required by the department will be obtained.

(k) Proposed effective period is reasonable based upon the factors specified under sub. (7) (e) 1. to 3.

(9) BEST PUBLIC INTEREST; HEARING; APPEALS. (a) A municipality shall conduct a public hearing and permit public participation at that hearing prior to issuing any determination concerning best public interest under sub. (8).

(b) Any person adversely affected by the municipality's determination concerning best public interest under sub. (8) may appeal the determination under ch. 68.

(10) MUNICIPAL WASTE FLOW CONTROL ORDINANCE. Except as provided under sub. (4), a municipality may adopt a municipal waste flow control ordinance if the municipality adopted an appropriate initial intent resolution under sub. (6), if the municipality or, if the municipality enters into an agreement under sub. (3), the responsible municipality submitted the necessary comprehensive facility project description report required under sub. (7), if the municipality issued a determination of best public interest utilizing criteria under sub. (8) after conducting the hearing required under sub. (9) and if the facility complies with this chapter and chs. 281, 285 and 289 to 299 and all permits, licenses and approvals required by the department are obtained. The municipal waste flow control ordinance shall include:

(a) A description of the applicable facility for the recycling of solid waste or for the recovery of resources from solid waste.

(b) A description of the recycling or resource recovery area subject to the ordinance and for which a required use order may be issued.

(c) A description of the types and quantities of solid waste which are subject to the ordinance and for which a required use order may be issued.

(d) A description of the persons who are subject to the ordinance and who may be required to use the facility under a required use order.

(e) A description of the minimums and maximums for the tipping fee, schedule of rates and other charges which may be imposed for use of the facility without amendment or revision of the ordinance.

(f) The effective period of the municipal waste flow control ordinance. The effective period and any revision of the effective period is required to be approved by the department based upon factors specified under sub. (7) (e) 1. to 3. A municipal waste flow control ordinance is not valid after the expiration of its effective period.

(g) A description of the methods proposed to be used to meet the recycling requirements of sub. (17).

(11) REQUIRED USE ORDER. A municipality may issue a required use order following the procedures required under sub. (12) if it adopted a municipal waste flow control ordinance and if the order is consistent with that ordinance. A required use order shall include:

(a) A description of the specific recycling or resource recovery area subject to the order.

(b) Specification of the types and quantities of solid waste subject to the order.

(c) A summary of the plans for the use of the solid waste.

(d) A description of the point or points where the solid waste is to be delivered or where the solid waste will be collected under the order.

(e) A summary of the tipping fee, rates and other charges which will be imposed for use of the facility under the order.

(12) NEGOTIATION. A municipality shall proceed as follows in issuing a required use order which requires use of a facility for the recycling of solid waste or for the recovery of resources from solid waste:

(a) The municipality shall notify those persons who are subject to the required use order at least 90 days prior to the effective date of that order. The municipality shall notify in writing all licensed collectors operating in the recycling or resource recovery area at least 90 days prior to the effective date of that order. The municipality shall notify other local units of government in the recycling or resource recovery area by providing a written notice to the clerk of those units of government. The municipality shall notify in writing the owner or operator of all solid waste disposal and treatment facilities located in or serving generators located in the recycling or resource recovery area at least 90 days prior to the effective date of that order. In addition, the municipality shall publish a class 3 notice, under ch. 985, in a newspaper having general circulation in the area. Each notification shall include information specified under sub. (11) (a) to (e).

(b) If a municipality fails to notify a person required to be notified under par. (a), the required use order is not effective and may not be enforced with respect to that person. If a municipality fails to notify the owner or operator of a solid waste disposal or treatment facility as required under par. (a), the required use order is not effective and may not be enforced with respect to that owner or operator or to a person furnishing solid waste to the owner or operator.

(c) During the 90−day period following the notification, the municipality shall negotiate with any or all of the persons subject to or affected by the required use order and attempt to develop a contractual agreement on the terms of required usage of the facility.

(d) In negotiating under this subsection, the municipality shall consider penalty fees, charges imposed and other financial consequences which will result from the termination of existing service contracts if a required use order takes effect and is enforced.

(e) If a contract is not entered into on or before the end of the 90−day period, or if, in the case of a person other than a local unit of government, the person does not make adequate arrangements for the processing for reuse of the waste generated by it, the municipality shall hold a public hearing on the matter and take testimony for and against the required use of the facility.

(f) If a contract is not entered into within 30 days after the public hearing, or if, in the case of a person other than a local unit of government, the person does not make adequate arrangements for the processing for reuse of the waste generated by it, the municipality may issue a special enforcement order requiring any person given notice to use the facility, starting on a specified date at least 30 days after the special enforcement order is issued.

(g) The municipality shall provide procedures so that any person adversely affected by the issuance of a special enforcement order may appeal that decision under ch. 68.

(13) TERMINATION OF REQUIRED USE. (a) A municipality may not terminate, suspend or curtail services provided to any person required to use a facility under this section without that person's consent.

(b) The obligations of a person under a required use order issued under this section may not be terminated or affected unless the municipality consents to the termination or revision.

(c) A municipality shall consent to the termination or revision of a required use order if the person subject to the order establishes that solid waste generated by that person will be recycled or treated for the recovery of resources and that:

1. The proposed recycling or recovery of resources is economically efficient;

2. The proposed recycling or recovery of resources would not reduce the type or quantity of solid waste available to the facility for which the required use order was issued to such an extent that the facility could not maintain minimum operational volumes necessary to fulfill existing contractual obligations for products or energy or necessary to make the facility economically feasible; and

3. The proposed recycling or recovery of resources results in a higher or better use of solid waste resources. A higher or better use of solid waste resources results if:

a. Recyclable or reusable materials are derived from the solid waste resources; or

b. Energy is derived from the solid waste resources.

(15) FEE AND RATE REVIEW. The tipping fee, rates and other charges and any revision in the tipping fee, rates and other charges established by a municipality for use of a facility for the recycling of solid waste or for the recovery of resources from solid waste which is required under this section are subject to review under ch. 68.

(16) PERMITS, LICENSE AND APPROVALS; REPORT REVIEW AND FEES; PROOF OF FINANCIAL RESPONSIBILITY. (a) A municipality may not construct, operate, maintain, expand, modify or close any facility for the recycling of solid waste or for the recovery of resources from solid waste in violation of chs. 281, 285 and 289 to 299 or without any license, permit or approval required by the department.

(b) The department shall review each comprehensive facility project description report submitted under sub. (7) and may require a municipality to pay a fee to cover costs incurred by the department associated with this review.

(c) The department may require a municipality to maintain proof of financial responsibility to ensure the availability of funds necessary for closure costs associated with the closing of a facility for the recycling of solid waste or for the recovery of resources from solid waste, and to remedy, abate or prevent hazards to public health or the environment.

(17) INCINERATION; RECYCLING REQUIREMENTS. (a) In this subsection, "incinerator" means a device which maintains a controlled process by which solid waste is thermally altered into gases and residue containing little or no combustible material.

(b) A municipality which adopts a waste flow control ordinance may not operate an incinerator as one of the means of recycling solid waste unless the department certifies that the requirements of par. (bg) are met.

(bg) Solid waste of each type to be incinerated, as determined in the air permit under s. 285.60, shall be recycled by means other than incineration to the extent of economic feasibility.

(e) This subsection applies to incinerators in operation on and after July 1, 1989.

History: 1983 a. 27, 192, 425; Stats. 1983 s. 144.794; 1985 a. 120; 1987 a. 27; 1989 a. 31; 1989 a. 56 ss. 177, 259; 1989 a. 335 ss. 57 to 57j, 59, 61 to 63; Stats. 1989 s. 159.13; 1991 a. 39; 1993 a. 112; 1995 a. 227 s. 896; Stats. 1995 s. 287.13; 2009 a. 50; 2013 a. 1.

287.15 Waste oil collection and recycling. (1) DEFINITIONS. As used in this section, unless the content requires otherwise:

(a) "Automotive engine oil" means any oil to be used in the engine or crankcase of a motor vehicle.

(b) "Consumer" means a person who, for personal or family purposes, purchases or uses automotive engine oil or generates, collects, stores or transports engine waste oil in quantities of less than 200 gallons per year.

(c) "Engine waste oil" means automotive engine oil after it is used and removed from the engine or crankcase of a motor vehicle but before that oil is recycled.

(d) "Fuel oil" means any oil to be burned to produce heat.

(e) "Motor vehicle" means any vehicle propelled by an internal combustion engine and includes any automobile, truck, bus, motorcycle, snowmobile or vehicle which travels on or off roads or highways.

(f) "Reclaimed oil" means engine waste oil which is processed by settling, dehydration, filtration or mixing, or combinations of those procedures, which removes some of the harmful physical and chemical characteristics which are acquired through use.

(g) "Recycled oil" means re−refined oil or reclaimed oil.

(h) "Re−refined oil" means engine waste oil which is processed by high temperature distillation and chemical treatment or any other process which removes all harmful physical and chemical characteristics acquired through use.

(i) "Retail sales establishment" means a person who is engaged in the business of selling automotive engine oil to consumers.

(j) "Service establishment" means a person who is engaged in the business of servicing and removing automotive engine oil from motor vehicles for consumers.

(k) "Waste oil" means any oil after use or which is contaminated through storage or handling before that oil is recycled.

(2) WASTE OIL COLLECTION. (a) *Retail sales establishment.* A retail sales establishment:

1. Shall maintain an engine waste oil collection facility for the temporary storage of engine waste oil returned by consumers and

post at least one sign at the location of sale which contains wording similar to: "Engine waste oil collection facility. Please return your waste oil here."; or

2. Shall post at least one sign at the location of sale which contains wording similar to: "Engine waste oil can be recycled. Please return your waste oil to a waste oil storage facility. The nearest waste oil storage facility is located .... and is open ....". The sign shall describe the location and the days and hours of operation.

(b) *Approved waste oil collection facilities.* The department shall establish by rule standards for the approval of certain types of facilities to be used for engine waste oil collection.

(c) *Exemption.* An engine waste oil collection facility maintained by a retail sales establishment which is of a type approved by the department is exempt from the rules promulgated under s. 289.05 (1) and need not be licensed as a solid waste disposal facility under subch. III of ch. 289.

(d) *Compliance with solid and hazardous waste regulations.* Except as provided under par. (c), no person may maintain or operate an engine waste oil collection facility unless the person complies with the requirements of chs. 289 and 291 and rules promulgated under those chapters with respect to that facility.

(3) WASTE OIL STORAGE FACILITIES. (a) *Required storage facilities.* 1. As used in this paragraph, "adequate engine waste oil storage facilities" means at least the minimum number of separate engine waste oil storage facilities each with a capacity of at least 250 gallons, approved by the department and accessible to the public. The department shall establish standards for the approval of certain types of facilities to be used for engine waste oil storage. These standards may allow the same facility to serve as an engine waste oil collection facility and an engine waste oil storage facility.

2. The minimum number of engine waste oil facilities for a city, village or town located in a county with a population of 50,000 or more is:

a. Zero if the population is less than 3,500.

b. One if the population is at least 3,500 but less than 25,000.

c. Two if the population is at least 25,000 but less than 100,000.

d. Three if the population is at least 100,000, plus one for each additional 100,000 of population.

3. The minimum number of engine waste oil storage facilities for a county with a population under 50,000 is one.

4. A city, village or town located in a county with a population of 50,000 or more shall provide for adequate engine waste oil storage facilities if these facilities do not exist.

5. A county with a population of less than 50,000 shall provide for an adequate engine waste oil storage facility if a facility does not exist.

(b) *Exemption.* If a municipality submits and obtains approval from the department for an informal plan of operation for an engine waste oil storage facility and constructs, maintains or provides for an engine waste oil storage facility of a type approved by the department, that facility is exempt from the rules promulgated under s. 289.05 (1) and need not be licensed as a solid waste disposal facility under subch. III of ch. 289. The informal plan of operation shall contain the information and be in a form approved by the department but is not required to be prepared by a registered professional engineer.

(c) *Compliance with solid and hazardous waste regulations.* Except as provided under par. (b), no person may maintain or operate a facility for the storage of engine waste oil unless the person obtains a license and complies with the requirements of chs. 289 and 291 and rules promulgated under those chapters with respect to that facility.

(4) WASTE OIL TRANSPORTATION. (a) *Exemptions.* 1. The department shall exempt a consumer from the licensing and other requirements of s. 291.23 and rules promulgated under s. 291.05 (5) for the transportation of engine waste oil.

2. The department may exempt a retail sales establishment or a service establishment from the licensing and other requirements of s. 291.23 and rules promulgated under s. 291.05 (5) for the transportation of engine waste oil.

(b) *Compliance with solid and hazardous waste regulations.* Except as provided under par. (a), no person may transport engine waste oil unless the person obtains a license and complies with the requirements of chs. 289 and 291 and rules promulgated under those chapters with respect to the transportation of the engine waste oil.

(c) *Collection and transportation service.* A person who collects and transports waste oil for sale or transfer to waste oil recyclers or for other approved methods of disposal shall obtain a license and comply with the requirements of chs. 289 and 291 and rules promulgated under these chapters. When issuing the license under s. 291.23, the department shall require any person who collects and transports waste oil to provide services to any collection or storage facility within his or her geographic area which has accumulated 200 gallons or more of engine waste oil. The department may revoke a license issued under s. 291.23 if a person who collects and transports waste oil fails to provide services to collection or storage facilities within his or her geographic area which have accumulated 200 gallons or more of engine waste oil.

(5) WASTE OIL RECYCLING. No person may maintain or operate a facility for the recycling of engine waste oil unless the person obtains a license and complies with the requirements of chs. 289 and 291 and rules promulgated under those chapters with respect to that facility.

(6) SALE OF RECYCLED OIL. (a) *Re−refined oil.* No person may sell or possess with the intent to sell any re−refined oil unless the container clearly and prominently states on the front panel "RE−REFINED OIL" and unless the container complies with the labeling standards established by the federal trade commission and the environmental protection agency.

(b) *Reclaimed oil.* No person may sell or possess with intent to sell any reclaimed oil unless the container clearly and prominently states on the front panel "RECLAIMED OIL" and unless the container complies with the labeling standards established by the federal trade commission and environmental protection agency.

(7) STATE CONTRACTS; USE OF RE−REFINED OIL. All contracting agencies of the state shall be encouraged to purchase re−refined oil to be used as automotive engine oil if re−refined oil is available in sufficient supply of comparable quality, satisfies applicable American petroleum institute standards and is available at prices competitive with new oil.

(8) PROMOTION OF RECYCLED OIL. The department, in conjunction with other interested state agencies, shall develop and conduct public information and educational programs regarding the availability of collection facilities, the merits of recycled oil, the need for using recycled oil to maintain oil reserves and the need to minimize the disposal of waste oil in ways harmful to the environment.

History: 1979 c. 221; 1981 c. 374 s. 148; 1987 a. 384; 1989 a. 335 s. 51; Stats. 1989 s. 159.15; 1995 a. 227 s. 897; Stats. 1995 s. 287.15.

Cross−reference: See also ch. NR 679, Wis. adm. code.

287.17 Electronic waste recycling. (1) DEFINITIONS. In this section:

(a) "Camera" means a device that records images and that is designed to be hand−held.

(am) "Cathode−ray tube" means a vacuum tube used to convert an electronic signal into a visual image.

(b) "Collection" means the act of receiving eligible electronic devices from households or schools and delivering, or arranging for the delivery of, the eligible electronic devices to a recycler.

(c) "Collector" means a person who receives eligible electronic devices from households or schools and delivers, or arranges for the delivery of, the eligible electronic devices to a recycler.

(d) "Computer monitor" means an electronic device that is a cathode−ray tube or flat panel display primarily intended to display information from a consumer computer or the Internet.

(e) "Consumer computer" means a high−speed data processing device for performing logical, arithmetic, or storage functions that is marketed by the manufacturer for use by households or schools, except that "consumer computer" does not include an automated typewriter or typesetter, a portable hand−held calculator or device, or other similar device.

(eg) 1. "Consumer printer" means, except as provided in subd. 2., one of the following that is marketed by the manufacturer for use by households or schools:

a. A desktop printer.

b. A device that prints and has other functions, such as copying, scanning, or sending facsimiles, and that is designed to be placed on a work surface.

2. "Consumer printer" does not include a calculator with printing capabilities or a label maker.

(em) "Consumer video display device" means a television or computer monitor with a tube or screen that is at least 7 inches in its longest diagonal measurement and that is marketed by the manufacturer for use by households or schools, except that "consumer video display device" does not include any of the following:

1. A television or computer monitor that is part of a motor vehicle and that is incorporated into the motor vehicle by, or for, a motor vehicle manufacturer or a franchised motor vehicle dealer.

2. A television or computer monitor that is contained within a clothes washer, clothes dryer, refrigerator, freezer, microwave oven, conventional oven or stove, dishwasher, room air conditioner, dehumidifier, or air purifier.

(f) "Covered electronic device" means a consumer video display device, a consumer computer, or a consumer printer.

(g) "Dwelling unit" means a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

(gm) "Electronic device" means a device that requires electric current or electromagnetic fields to function and that contains a circuit board.

(gs) "Eligible electronic device" means a device that is one of the following and that is used by a household primarily for personal use or by a school, unless the device is of a kind exempted by a rule promulgated under s. 287.17 (10) (i):

1. A consumer computer.

2. A peripheral.

3. A facsimile machine.

4. A digital video disc player.

4m. A digital video player that does not use a disc and that is not a camera.

5. A video cassette recorder.

5m. A video recorder that does not use a cassette and that is not a camera.

6. A consumer video display device.

6m. A consumer printer.

7. Another kind of electronic device identified by the department under sub. (10) (i).

(h) "Household" means one or more individuals who occupy one dwelling unit in a detached or multiunit building.

(i) "Manufacturer" means a person who does any of the following:

1. Manufactures covered electronic devices to be sold under the person's own brand.

2. Sells covered electronic devices manufactured by others under the person's own brand.

3. Except as provided in sub. (1m), licenses the person's brand for manufacture and sale of covered electronic devices by others.

(j) "Peripheral" means a keyboard or any other device, other than a consumer printer, that is sold exclusively for external use with a consumer computer and that provides input into or output from a consumer computer.

(jm) "Program quarter" means a 3−month period ending on March 31, June 30, September 30, or December 31.

(k) "Program year" means the period from July 1 to the following June 30.

(L) "Recycler" means a person who accepts eligible electronic devices from households, schools, or collectors for the purpose of recycling. "Recycler" does not include a manufacturer who accepts products exclusively for refurbishing or repair.

(m) "Recycling" means preparing eligible electronic devices for use in manufacturing processes or for recovery of usable materials and delivering the materials for use. "Recycling" does not include destruction by incineration or other processes or land disposal of recyclable materials and does not include reuse, repair, or any other process through which eligible electronic devices are returned for use by households or schools in their original form.

(mg) "Registered collector" means a collector who is registered under sub. (7).

(mr) "Registered recycler" means a recycler who is registered under sub. (8).

(n) "Retailer" means a person who sells a covered electronic device to a household or school in this state, in person or by mail, telephone, or the Internet, for use by the household or school.

(nm) "Rural county" means a county that is not an urban county.

(np) "School" means a public school, as defined in s. 115.01 (1), a private school participating in the program under s. 118.60, or a private school participating in the program under s. 119.23.

(o) "Sell" means to transfer title or right to use for consideration.

(p) "Television" means an electronic device, with a cathode−ray tube or flat panel display, primarily intended to receive video programming via broadcast, cable, or satellite transmission or to receive video images from surveillance or similar cameras.

(pm) "Urban county" means Brown County, Calumet County, Chippewa County, Dane County, Dodge County, Douglas County, Dunn County, Eau Claire County, Fond du Lac County, Grant County, Green County, Jefferson County, Kenosha County, LaCrosse County, Lincoln County, Manitowoc County, Marathon County, Marinette County, Milwaukee County, Outagamie County, Ozaukee County, Pierce County, Portage County, Racine County, Rock County, Sauk County, Sheboygan County, St. Croix County, Walworth County, Washington County, Waukesha County, Winnebago County, or Wood County.

(1m) TRANSFER OF MANUFACTURER RESPONSIBILITIES. If a person who licenses the person's brand for manufacture and sale of covered electronic devices by another enters into a contract with the licensee under which the licensee assumes the responsibilities that arise under sub. (2) (a) from the sale of those covered electronic devices, the licensee, rather than the licensor, is the manufacturer of the covered electronic devices.

(2) REQUIREMENTS FOR SALE OF COVERED ELECTRONIC DEVICES. (a) *Manufacturers.* Beginning on February 1, 2010, a manufacturer may not sell to a household or school, offer to sell to a household or school, or deliver to a retailer for subsequent sale to a household or school a new covered electronic device unless all of the following apply:

1. The manufacturer permanently affixes a label to the covered electronic device that is readily visible and that shows the manufacturer's brand.

2. The manufacturer is registered with the department in accordance with sub. (3).

3. The manufacturer pays the fees under sub. (4).

4. The manufacturer recycles or arranges for the recycling, by a registered recycler, of eligible electronic devices used by households or schools in this state.

5. The manufacturer reports as required under sub. (5).

(b) *Cooperation.* A manufacturer may carry out its responsibilities under par. (a) 4. jointly with other manufacturers and may participate with other manufacturers in creating an entity to collect and recycle eligible electronic devices.

(c) *Retailers.* 1. Beginning on July 1, 2010, a retailer may not sell or offer for sale to a household or school a new covered electronic device unless, before making the first offer for sale, the retailer has determined that the brand of the covered electronic device is listed on the department's Internet site under sub. (10) (a).

2. If a manufacturer's registration is revoked or expired and the retailer took possession of a covered electronic device of the manufacturer before the registration was revoked or expired, the retailer may sell the covered electronic device to a household or school, but only if the sale takes place fewer than 180 days after the revocation or expiration.

(3) REGISTRATION OF MANUFACTURERS. (a) To comply with sub. (2) (a) 2., a manufacturer shall, no later than February 1, 2010, and annually, no later than September 1 beginning in 2010, submit to the department a registration that includes all of the following:

1. A list of the manufacturer's brands of covered electronic devices offered for sale in this state.

2. The name, address, and contact information of an individual responsible for ensuring compliance with this section.

3. A certification that the manufacturer has complied, and will continue to comply, with the requirements of this section.

(b) Beginning with the registration due by September 1, 2010, a manufacturer shall indicate in its registration under par. (a) which of the following applies:

1. The manufacturer's covered electronic devices comply with the European Union directive on the restriction of the use of hazardous substances in electrical and electronic equipment, 2002/95/EC or a successor directive.

2. The manufacturer's covered electronic devices do not comply with the European Union directive on the restriction of the use of hazardous substances in electrical and electronic equipment, 2002/95/EC or a successor directive.

(c) Notwithstanding the deadline in par. (a), a manufacturer who begins selling covered electronic devices after February 1, 2010, and who has not previously submitted a registration under this subsection shall submit a registration to the department not more than 10 days after the day on which the manufacturer begins selling or offering to sell covered electronic devices.

(d) If a manufacturer changes the brands that it sells or offers to sell, the manufacturer shall update its registration not more than 10 days after making the change.

(e) A complete registration is effective on receipt by the department and is valid until the following September 1 unless revoked before that date.

(f) Within 20 business days after the receipt of a registration under this subsection, the department shall review the registration submitted and notify the manufacturer if the registration is not complete.

(4) MANUFACTURER RECYCLING TARGETS, FEES, AND RECYCLING CREDITS. (a) *Payment.* To comply with sub. (2) (a) 3., a manufacturer shall pay fees as provided in this subsection with the registration that it submits under sub. (3).

(b) *Registration fees.* 1. If the manufacturer sold at least 250 covered electronic devices in this state during the previous program year, the manufacturer shall pay a registration fee of $5,000, except, as provided under sub. (10) (k).

2. If the manufacturer sold at least 25 but fewer than 250 covered electronic devices in this state during the previous program year, the manufacturer shall pay a registration fee of $1,250.

3. If the manufacturer sold fewer than 25 covered electronic devices in this state during the previous program year, the manufacturer is not required to pay a registration fee.

(bm) *Shortfall fees.* In addition to the registration fee, beginning in 2011, a manufacturer shall pay shortfall fees under par. (d) if the amounts calculated under that provision are positive numbers, except that a manufacturer is not required to pay shortfall fees until its covered electronic devices have been sold or offered for sale to households or schools in this state for 3 full program years and except as provided under par. (g).

(d) *Annual shortfall fee after 2010.* The annual shortfall fee to be paid by a manufacturer in a year after 2010 is calculated as follows:

1. Determine the manufacturer's target recycling weight by multiplying the number of pounds of the manufacturer's covered electronic devices sold to households or schools in this state during the program year that began 36 months before the beginning of the program year in which the calculation is made, as reported under sub. (5) (a), by 0.8.

2. Determine the actual recycling weight by adding the weight of eligible electronic devices recycled by or on behalf of the manufacturer during the previous program year, as determined under par. (f) 1., plus the number of recycling credits that a manufacturer elects to use, as reported to the department under sub. (5) (c) 3.

3. Subtract the actual recycling weight, determined under subd. 2., from the target recycling weight, determined under subd. 1.

4. Multiply the amount determined under subd. 3. by the estimated cost of recycling determined as follows:

a. Fifty cents per pound for a manufacturer if the weight of eligible electronic devices recycled by or on behalf of the manufacturer, as determined under subd. 2., is less than 50 percent of the target recycling weight, determined under subd. 1.

b. Forty cents per pound for a manufacturer if the weight of eligible electronic devices recycled by or on behalf of the manufacturer, as determined under subd. 2., is at least 50 percent but not more than 90 percent of the target recycling weight, determined under subd. 1.

c. Thirty cents per pound for a manufacturer if the weight of eligible electronic devices recycled by or on behalf of the manufacturer, as determined under subd. 2., is more than 90 percent of the target recycling weight, determined under subd. 1.

(dm) *Target recycling weight for 2010.* A manufacturer's target recycling weight for the last 2 program quarters of program year 2009−10, is calculated by multiplying the number of pounds of the manufacturer's covered electronic devices sold to households in this state during program year 2007−08, as reported under sub. (5) (a), by 0.8 and multiplying the product by 0.5.

(e) *Recycling credits.* If, for a program year, the weight of eligible electronic devices recycled by or on behalf of a manufacturer, as determined under par. (f) 1. or 2., exceeds the target recycling weight determined under par. (d) 1. or (dm), the manufacturer has a number of recycling credits equal to the number of excess pounds or 20 percent of the target recycling weight, whichever is less. The manufacturer may use the credits for the purpose of par. (d) 2. for any of the 3 succeeding program years or may sell credits to another manufacturer for use for any of the 3 succeeding program years.

(f) *Weight recycled.* 1. The weight of eligible electronic devices recycled by or on behalf of a manufacturer for a program year is the weight reported under sub. (5) (b) for that program year, except that if the manufacturer reports separately the weight of eligible electronic devices used by households or schools in rural counties and used by households or schools in urban counties for a program year, the weight is determined by adding the weight

used by households or schools in urban counties in that program year and 1.25 times the weight used by households or schools in rural counties in that program year.

2. The weight of eligible electronic devices recycled by or on behalf of a manufacturer for the last 2 program quarters of program year 2009−10 is the weight reported under sub. (5) (b) for that period, except that if the manufacturer reports separately the weight of eligible electronic devices used by households or schools in rural counties and used by households or schools in urban counties for that period, the weight is determined by adding the weight used by households or schools in urban counties in that period and 1.25 times the weight used by households or schools in rural counties in that period.

(g) *Relief from shortfall fee.* 1. Instead of paying a shortfall fee under this subsection in a year, a manufacturer may submit, with its registration, a request for relief from the shortfall fee in that year along with information showing that the manufacturer has made good faith progress toward meeting its target recycling weight under par. (d) 1.

2. If the department determines that a manufacturer that makes a request under subd. 1. in a year has made good faith progress toward meeting its target recycling weight, the department shall waive the requirement that the manufacturer pay the shortfall fee in the year. If the department determines that the manufacturer has not made good faith progress toward meeting its target recycling weight, it shall notify the manufacturer and the manufacturer shall pay the shortfall fee within 60 days after receiving the notification.

(5) MANUFACTURERS REPORTING REQUIREMENTS. (a) *Weight of covered electronic devices sold.* 1. Except as provided in subd. 3., with each registration that it submits under sub. (3), a manufacturer shall report one of the following to the department:

a. The total weight of each model of its covered electronic devices sold to households or schools in this state during the program year that began 24 months before the beginning of the program year in which the report is made.

b. The total weight of all of its covered electronic devices sold to households or schools in this state during the program year that began 24 months before the beginning of the program year in which the report is made.

c. An estimate, based on national sales data, of the total weight of its covered electronic devices sold to households or schools in this state during the program year that began 24 months before the beginning of the program year in which the report is made.

2. A manufacturer shall include in the report required under subd. 1. a description of how the manufacturer calculated the weight reported under subd. 1.

3. A manufacturer is not required to report under subd. 1. until its covered electronic devices have been sold or offered for sale to households or schools in this state for one full program year.

4. The department may reject a manufacturer's report under subd. 1. if it determines that the report is not complete or not reasonably accurate.

(b) *Weight of eligible electronic devices recycled.* With the registration that it submits under sub. (3) that is due by September 1, 2010, a manufacturer shall report to the department the total weight of eligible electronic devices used by households or schools in this state that were collected by or delivered to the manufacturer for recycling by the manufacturer or that were collected by or delivered to a registered recycler for recycling on behalf of the manufacturer during the last 2 program quarters of the preceding program year. Beginning in 2011, with the registration that it submits under sub. (3), a manufacturer shall report to the department the total weight of eligible electronic devices used by households or schools in this state that were collected by or delivered to the manufacturer for recycling by the manufacturer or that were collected by or delivered to a registered recycler for recycling on behalf of the manufacturer during the preceding program year. A manufacturer may report separately the weight of eligible electronic devices used by households or schools in rural counties and used by households or schools in urban counties for the purpose of obtaining the weight adjustment under sub. (4) (f) for eligible electronic devices received from households or schools in rural counties.

(c) *Recycling credits.* With the registration that it submits under sub. (3), beginning in 2011, a manufacturer shall report all of the following to the department:

1. The number of recycling credits that the manufacturer purchased during the preceding program year.

2. The number of recycling credits that the manufacturer sold during the preceding program year.

3. The number of recycling credits that the manufacturer elects to use in the calculation of its shortfall fees under sub. (4) (d) 2.

4. The number of recycling credits available to the manufacturer after calculating its shortfall fees under sub. (4) (d) 2.

(7) COLLECTORS. (a) *Registration.* 1. Beginning on January 1, 2010, no person may operate as a collector delivering or arranging for the delivery of eligible electronic devices to a registered recycler for recycling on behalf of a manufacturer who is registered under sub. (3) unless the person is registered under this paragraph. A person shall register by submitting, no later than January 1, 2010, and annually, no later than August 1 beginning in 2010, to the department a registration, using a form prescribed by the department, that includes all of the following:

a. The name, address, and contact information of a responsible individual.

b. The street address of all facilities at which the person operates as a collector.

c. A certification that the person has all governmental licenses or other approvals that are required to operate as a collector and has complied, and will continue to comply, with the requirements of this subsection and with applicable health, environmental, safety, and financial responsibility requirements.

2. A complete registration is effective on receipt by the department and is valid until the following August 1 unless suspended or revoked before that date.

(b) *Reports and records.* No later than August 1 of each program year, beginning August 1, 2010, a registered collector shall report to the department the total weight of eligible electronic devices collected in this state during the preceding program year and the names of all registered recyclers to whom the collector delivered eligible electronic devices. A registered collector shall maintain records of the sources of eligible electronic devices it collects and of the registered recyclers to whom the collector delivers eligible electronic devices.

(c) *Limitation.* A registered collector may not use prison labor to collect eligible electronic devices the weight of which was or will be reported under sub. (5) (b).

(8) RECYCLERS. (a) *Registration.* 1. Beginning on January 1, 2010, no person may operate as a recycler receiving eligible electronic devices on behalf of a manufacturer who is registered under sub. (3) unless the person is registered under this paragraph. A person shall register by submitting, no later than January 1, 2010, and annually, no later than August 1 beginning in 2010, to the department a registration, using a form prescribed by the department, that includes all of the following:

a. The name, address, and contact information of a responsible individual.

b. The street address of all facilities at which the person conducts recycling.

c. The certification required under par. (d).

d. Documentation of the liability insurance required under this subsection.

2. A complete registration is effective on receipt by the department and is valid until the following August 1 unless suspended or revoked before that date.

(b) *Reports and records.* 1. No later than August 1 of each program year, beginning with August 1, 2010, a registered recycler shall report to the department the total weight of eligible electronic devices collected in this state that the recycler received for recycling on behalf of a manufacturer registered under sub. (3) during the preceding program year and the name of the manufacturer.

2. No later than February 1 of each program year, beginning in 2011, a registered recycler shall report to the department all of the following:

a. The total weight of eligible electronic devices collected in this state that the recycler received for recycling on behalf of a manufacturer during the first 6 months of the program year and the name of the manufacturer.

b. The total weight of eligible electronic devices collected in this state that the recycler received for recycling during the first 6 months of the program year in anticipation of attributing them to a manufacturer for the purposes of the program under this section.

3. A registered recycler shall maintain records of the sources of eligible electronic devices collected in this state that the recycler receives for recycling on behalf of a manufacturer registered under sub. (3).

(c) *Operational requirements.* 1. A registered recycler shall maintain liability insurance coverage in the amount of at least $1,000,000 for environmental releases, accidents, and other emergencies.

2. A registered recycler may not use prison labor to recycle eligible electronic devices the weight of which was or will be reported under sub. (5) (b).

3. A registered recycler shall maintain proof of financial responsibility ensuring the availability of funds in an amount sufficient to cover the reasonable estimated costs of paying another person to close the facilities at which recycling is conducted, including managing any remaining eligible electronic devices or materials derived from eligible electronic devices and performing any necessary environmental cleanup. The registered recycler shall maintain, and provide to the department upon request, an itemized statement of the estimated costs in a form specified by the department and documentation of the source of the estimates. The registered recycler may provide the proof of financial responsibility required under this subdivision using one of the following:

a. A surety bond.

b. A deposit of cash, certificates of deposit, or securities issued by the federal government.

c. An escrow account.

d. An irrevocable letter of credit.

e. An irrevocable trust.

4. A registered recycler shall maintain records that can be used to determine, for each program year, the total weight of eligible electronic devices recycled by the recycler on behalf of manufacturers under this section, the weight of materials derived from those eligible electronic devices that the registered recycler sends to another person for use in a manufacturing process or for recovery of usable materials, and the weight of materials derived from those eligible electronic devices that the registered recycler sends to be disposed of in a solid waste disposal facility or burned at a solid waste treatment facility.

5. A registered recycler shall maintain records that do all of the following:

a. Identify each person who received from the registered recycler materials derived from eligible electronic devices recycled on behalf of manufacturers under this section.

b. If a person identified under subd. 5. a. does not use the materials in a manufacturing process, identify each person who receives from the person identified under subd. 5. a. materials derived from eligible electronic devices recycled on behalf of manufacturers under this section.

5m. A registered recycler shall make the information under subds. 4. and 5. for a program year available, upon request, to a manufacturer on behalf of whom the recycler recycled eligible electronic devices under this section in that program year, except that if the recycler maintains a system under which it tracks eligible electronic devices recycled on behalf of one manufacturer, and the disposition of the materials derived from those eligible electronic devices, separately from other eligible electronic devices that it recycles, the recycler is only required to provide to that manufacturer the information under subds. 4. and 5. concerning the eligible electronic devices recycled on behalf of that manufacturer.

6. A registered recycler shall maintain records that show the actions that it takes in a program year to ensure that the persons identified under subd. 5. use the materials derived from eligible electronic devices in a manufacturing process or for recovery of usable materials and shall make that information available upon request to a manufacturer on behalf of whom the recycler recycles eligible electronic devices under this section in that program year.

7. A registered recycler shall prepare and maintain a written contingency plan for responding to releases of hazardous substances that complies with the requirements in s. NR 664.0052, Wis. Adm. Code.

8. A registered recycler shall comply with any other operational requirement in rules promulgated under par. (e).

(d) *Certification.* As a condition of registration under par. (a), a registered recycler shall submit to the department a certification that states that the registered recycler does all of the following:

1. Complies with par. (c).

2. Complies with federal, state, and local requirements concerning the storage, transportation, processing, and exporting of eligible electronic devices and materials derived from eligible electronic devices, including the requirements in 40 CFR 261.39 (a) (5) and 273.20 and requirements in rules promulgated under s. 291.05.

3. Complies with federal requirements under 29 CFR 1910.120 concerning occupational and environmental health and safety training for employees.

(e) *Modifying or adding requirements by rule.* The department shall review the requirements under par. (c) 1. to 7. to determine whether it is necessary to modify or add to those requirements so that the requirements applicable to registered recyclers are at least equivalent to nationally recognized standards for recycling eligible electronic devices. If the department determines that it is necessary to modify or add to the requirements under par. (c) 1. to 7., the department shall promulgate rules that modify or add to the requirements so that they are at least equivalent to nationally recognized standards for recycling eligible electronic devices. The department may not promulgate a rule under this paragraph that takes effect before October 1, 2011.

(9) RETAILERS. Beginning on July 1, 2010, a retailer who sells covered electronic devices for use by households or schools shall provide to purchasers information describing how eligible electronic devices can be collected and recycled and a description of the prohibitions in s. 287.07 (5) (a). A retailer may satisfy this requirement by providing a toll−free number for receiving the information and a description of how to access the department's Internet site under sub. (10) (a). A retailer who sells through a catalog may provide the information in the catalog. A retailer who sells through the Internet may provide the information on its Internet site.

(9m) RECORD KEEPING AND INSPECTION. A person subject to sub. (3), (7), (8), or (9) shall maintain records related to the program under this section and reports required under this section for at least 3 years. The department may inspect records of a person subject to sub. (3), (7), (8), or (9) that are related to the program under this section.

(10) POWERS AND DUTIES OF THE DEPARTMENT. (a) *Internet site; manufacturers.* The department shall maintain an Internet site on which the department lists the names of manufacturers who are registered under sub. (3) and the names of the brands listed in the manufacturers' registrations. The department shall update the information on the Internet site promptly upon receipt of a new or revised registration. The department shall include on the Internet site a statement that this section applies only to covered electronic devices sold for household or school use and that the list of manufacturers is not a list of manufacturers qualified to sell video display devices, computers, or printers for industrial, commercial, or other nonhousehold or nonschool uses. The department shall also include on the Internet site the contact information provided by manufacturers under sub. (3) (a) 2.

(am) *Internet site; recyclers.* The department shall maintain an Internet site on which the department lists the names of registered recyclers. The department shall update the information on the Internet site promptly upon receipt of a new or revised registration.

(b) *Providing information.* Except as provided in par. (bm), the department shall make the information provided in registration statements and reports under subs. (3), (5), (7), and (8) available to manufacturers, retailers, and the public.

(bm) *Confidentiality.* 1. The department shall keep confidential any part of a record, report, or other information obtained in the administration of this section upon receiving an application for confidential status by any person containing a showing satisfactory to the department that the part of a record, report, or other information would, if made public, divulge a method or process that is entitled to protection as a trade secret, as defined in s. 134.90 (1) (c), of that person.

2. If the department refuses to release information on the grounds that it is confidential under subd. 1. and anyone challenges that refusal, the department shall inform the person who submitted the application under subd. 1. of that challenge. Unless that person authorizes the department to release the information, that person shall pay the reasonable costs incurred by this state to defend the refusal to release the information.

3. Subdivision 1. does not prevent the disclosure of any information to a representative of the department for the purpose of administering this section or to an officer, employee, or authorized representative of the federal government for the purpose of administering federal law. When the department provides information that is confidential under subd. 1. to the federal government, the department shall also provide a copy of the application for confidential status.

(c) *Review of formula.* 1. The department shall annually review all of the following:

a. The number by which the weight of covered electronic devices sold is multiplied under sub. (4) (d) 1. to determine target recycling weight.

b. The estimated cost of recycling under sub. (4) (d) 4.

c. The registration fees under sub. (4) (b).

d. The multiplier for the weight of eligible electronic devices collected from households or schools in rural counties under sub. (4) (f).

2. If the department determines that any of the values under subd. 1. a. to d. should be changed in order to improve the effectiveness of the program under this section or to provide more recycling opportunities to rural areas of this state, the department shall report its recommendations for changes under s. 13.172 (3) to the committee of each house of the legislature with jurisdiction over solid waste policy.

(cm) *Report concerning sales information.* The department shall evaluate the accuracy of the information provided by manufacturers under sub. (5) (a) in 2010 and whether the weight of each manufacturer's covered electronic devices sold in this state should be based on national sales data obtained from 3rd parties. Before December 1, 2011, the department shall report the results of its evaluation to the legislature under s. 13.172 (2) and to the governor.

(d) *Annual report.* Before December 1 of each year, beginning in 2012, the department shall provide a report on the program under this section to the legislature under s. 13.172 (2) and to the governor. The department shall include all of the following in the report:

1. The total weight of eligible electronic devices recycled.

2. A summary of the information provided by manufacturers and recyclers under subs. (5) and (8).

3. Information concerning the recycling programs used by manufacturers to recycle eligible electronic devices.

4. Information concerning the collection and recycling of eligible electronic devices by persons other than registered manufacturers, registered collectors, and registered recyclers.

5. Information about any disposal of eligible electronic devices in landfills and any burning of eligible electronic devices in solid waste treatment facilities in this state.

6. A description of any actions taken to enforce the requirements of this section.

7. Any recommendations to apply the requirements under sub. (2) to additional kinds of devices.

(e) *Report concerning federal legislation.* If a federal law relating to the collection and recycling of covered electronic devices sold in the United States is enacted, the department shall prepare a report describing the effect of the federal law and shall submit the report under s. 13.172 (3) to the committee of each house of the legislature with jurisdiction over solid waste policy.

(f) *Outreach and communication.* 1. The department shall promote public participation in the collection and recycling of eligible electronic devices by and on behalf of manufacturers through education and outreach activities. The department shall facilitate communications between local governments, persons operating solid waste collection and recycling centers, and manufacturers to ensure that manufacturers are aware of eligible electronic devices that are available for recycling.

2. The department shall assist recyclers to identify federal and state requirements concerning the storage, transportation, export, and processing of eligible electronic devices and materials derived from eligible electronic devices. The department shall assist collectors to identify health, environmental, safety, and financial responsibility requirements applicable to collectors.

(g) *Cooperation with other states.* The department may cooperate with other states to effectuate the program under this section. The department may, with other states, operate a regional system for creating, trading, and selling credits for recycling eligible electronic devices.

(h) *Suspension and revocation.* The department may revoke the registration of a manufacturer who violates sub. (2) (a), (3), (4), or (5). The department may suspend or revoke the registration of a collector or recycler who violates sub. (7) or (8).

(i) *Addition or exemption of eligible electronic devices.* If the department determines that the disposal or burning of a kind of electronic device that is not listed in sub. (1) (gs) in a solid waste facility may be harmful to human health or the environment, the department may promulgate a rule specifying that the kind of electronic device is an eligible electronic device, is subject to s. 287.07 (5) (a), or both. If the department determines that the disposal or burning of a kind of electronic device that is listed in sub. (1) (gs) or s. 287.07 (5) (a) in a solid waste facility is not harmful to human health and is not harmful to the environment or if the department determines that it is not feasible to require the recycling of a kind of electronic device that is listed in sub. (1) (gs) or s. 287.07 (5) (a), the department may promulgate a rule specifying that the kind of electronic device is not an eligible electronic device, is not subject to s. 287.07 (5) (a), or both. The department may not promulgate a rule under this paragraph that takes effect before October 1, 2011.

(j) *Audits*. The department may perform or contract for the performance of an audit of the activities of a registered collector or registered recycler. If the department performs or contracts for the performance of an audit of a collector or recycler during the first 3 years in which the collector or recycler is registered under sub. (7) or (8) (a), the collector or recycler shall pay 25 percent of the cost of the audit. If the department performs or contracts for the performance of an audit of a collector or recycler after the first 3 years in which the collector or recycler is registered, the collector or recycler shall pay 50 percent of the cost of the audit.

(k) *Modification of registration fee*. The department may modify the registration fee under sub. (4) (b) 1. by rule. The department may not promulgate a rule under this paragraph that takes effect before October 1, 2011.

(11) PENALTIES. (a) *Manufacturer*. Any manufacturer who violates this section may be required to forfeit not more than $10,000 for each violation.

(b) *Others*. Any person, other than a manufacturer, who violates this section may be required to forfeit not more than $1,000 for each violation.

History: 2009 a. 50; 2011 a. 32, 258; 2011 a. 257 s. 56; 2015 a. 197 s. 51.

287.18 Lead acid battery collection. (1) DEFINITIONS. In this section:

(a) "Battery" means a lead acid battery.

(b) "Consumer" means a person who uses a battery.

(bm) "Deposit" means an amount charged upon the sale of an item, whether as a separate charge or included in the original purchase price of the item, that is refunded when the item, or another item of the same kind, is relinquished to the person who sold the item. "Deposit" includes a core charge.

(c) "Retailer" means a person who sells batteries to consumers.

(1m) NOTICE. (a) The department shall provide a notice concerning the disposal of batteries to all retailers. The notice shall be 8.5 inches by 11 inches and all notices shall be of the same color, typeface and type size. The notice shall include all of the following information:

1. That it is illegal to dispose of a motor vehicle battery or other battery in a landfill or incinerator.

2. That batteries should be recycled.

3. That state law requires retailers to accept used batteries in trade and in some other instances.

(b) A retailer shall post the notice provided under par. (a) in a place where it can be seen by consumers.

(2) SALE AND INSTALLATION. (a) A retailer who sells a battery to a consumer and installs the battery shall accept the used battery unless the consumer refuses to relinquish the used battery.

(b) If the consumer refuses to relinquish the used battery under par. (a), the retailer shall comply with sub. (3).

(3) COUNTER SALES. (a) If a retailer sells a battery to a consumer without installing the battery or if sub. (2) (b) applies, the retailer shall do all of the following:

2. Offer to take the consumer's used battery in trade.

3. Subject to par. (b), accept the consumer's used battery in trade for a new battery without charge or time limit, during normal business hours, at any business location owned or operated by the retailer.

(b) A retailer accepting a used battery in trade under par. (a) 3. may require the consumer to provide proof that the consumer purchased a battery from the retailer.

(4) ACCEPTANCE OF OTHER BATTERIES. (a) Except as provided in par. (b), if a person delivers to a retailer a used battery to which sub. (3) (a) 3. does not apply, the retailer shall accept the used battery. A retailer may charge up to $3 for each battery delivered under this paragraph.

(b) A retailer is not required to accept more than 2 batteries delivered under this subsection by a person on one day.

(5) DEPOSIT. A retailer shall charge a deposit of $10 on the sale of an automotive type replacement battery, such as an automobile, truck, motorcycle, all−terrain vehicle, utility terrain vehicle, snowmobile, golf cart, tractor, lawn and garden equipment, or marine battery or other battery used to start an internal combustion engine. The retailer shall refund the deposit if the consumer delivers the battery to the retailer under sub. (3) (a) 3.

History: 1989 a. 335; 1991 a. 32; 1995 a. 227 s. 899; Stats. 1995 s. 287.18; 2013 a. 305.

287.185 Disposal of mercuric oxide batteries. (1) In this section:

(a) "Mercuric oxide battery" has the meaning given in s. 100.27 (1) (c).

(b) "Mercuric oxide button cell battery" has the meaning given in s. 100.27 (1) (d).

(c) "Waste mercuric oxide battery" means a mercuric oxide battery that is no longer suitable for its original purpose due to use, wear, damage or defect.

(2) Beginning on July 1, 1994, no person, except for a person operating a collection site identified under s. 100.27 (5) (a), may treat, store or dispose of a waste mercuric oxide battery, other than a mercuric oxide button cell battery, except by sending it to a collection site identified under s. 100.27 (5) (a).

(3) A person operating a collection site identified under s. 100.27 (5) (a) shall recycle or have recycled all collected waste mercuric oxide batteries unless no reasonable alternative exists.

History: 1993 a. 74; 1995 a. 227 s. 900; Stats. 1995 s. 287.185.

287.19 Statewide technical assistance. (1) DUTIES. The department shall provide assistance to individuals, groups, businesses, state agencies, counties and municipalities in all aspects of recycling consistent with this subchapter, and whenever practical shall be provided with an emphasis on documents and material easy to read and understand by the general public. This assistance may be provided through programs established under s. 287.21 and shall include all of the following:

(a) *Waste generation*. 1. Providing information on how to conduct a survey of the composition of solid waste and, as appropriate, conducting one or more surveys.

2. Maintaining current estimates of the amount of components of solid waste specified in s. 287.07 generated by categories of businesses, industries, municipalities and other governmental entities and of the amount of material that is recovered from solid waste for reuse or recycling.

3. Providing solid waste generators with information on how to manage solid waste consistent with s. 287.05 (12).

(b) *Recycling programs*. With respect to programs created under s. 287.09 (2) (a):

1. Identifying appropriate qualifications of program coordinators and staff.

2. Preparing sample ordinances, procedural handbooks and contracts.

3. Identifying sources of information regarding the creation and operation of a municipal or county program.

4. Providing advice, upon the request of a municipality or county, on implementing the municipality's or county's solid waste management plan.

(2) POWERS. In providing assistance under sub. (1), the department may provide assistance relating to the marketing of materials recovered from solid waste.

History: 1989 a. 335; 1993 a. 75; 1995 a. 227 s. 901; Stats. 1995 s. 287.19; 1997 a. 60; 2003 a. 33.

287.21 Statewide education program. The department shall collect, prepare and disseminate information and conduct educational and training programs designed to assist in the implementation of solid waste management programs under ss. 287.01 to 287.27, enhance municipal and county solid waste management programs under s. 287.09 (2) (a) and inform the public

of the relationship among an individual's consumption of goods and services, the generation of different types and quantities of solid waste and the implementation of the solid waste management priorities in s. 287.05 (12). The department shall prepare the information and programs on a statewide basis for the following groups:

(1) Municipal, county and state officials and employees.

(2) Kindergarten through graduate students and teachers.

(3) Private solid waste scrap brokers, dealers and processors.

(4) Businesses that use or could use recycled materials or that produce or could produce products from recycled materials and persons who provide support services to those businesses.

(5) The general public.

History: 1989 a. 335; 1995 a. 227 s. 902; Stats. 1995 s. 287.21; 2015 a. 7.

287.215 Yard waste publicity. The department shall conduct activities to make the public aware of the need to cease disposing of yard waste in solid waste disposal facilities.

History: 1989 a. 31; 1991 a. 32 s. 79; Stats. 1989 s. 159.215; 1995 a. 227 s. 903; Stats. 1995 s. 287.215.

287.22 Council on recycling. (1) DEFINITION. In this section, "council" means the council on recycling.

(2) DUTIES. The council shall do all of the following:

(a) Promote the efficient and prompt implementation of state programs related to solid waste reduction, recovery and recycling.

(b) Advise and assist state agencies and authorities and county and municipal officials in the coordination of programs and the exchange of information related to solid waste reduction, recovery and recycling. This assistance, whenever practical, shall be provided with an emphasis on documents and material easy to read and understand by the general public.

(c) Advise state agencies concerning the promulgation of rules under ss. 100.29, 100.295, and 101.126.

(d) Advise the department and the University of Wisconsin System concerning educational efforts and research related to solid waste reduction, recovery and recycling.

(g) Develop recommendations and cooperate with the packaging industry concerning establishing and implementing standards for recyclable packaging.

(gm) Develop recommendations, advise and assist county and municipal officials and the automotive service industry to promote the recycling of oil filters used in motor vehicles and other machinery.

(h) Advise the department concerning the development of a statewide plan for public service announcements that would provide information about recycling programs and the benefits of recycling through radio and television announcements produced in this state's production facilities and designate a liaison with television and radio stations to try to secure the broadcast of the public service announcements.

(i) Advise the governor and the legislature.

(2m) STATUS REPORTS. The council may request a status report from any state agency or authority implementing a solid waste reduction, recovery or recycling program.

(3) SUBCOMMITTEES. The council may create subcommittees to assist in its work. Subcommittee members may include members of the council, state employees and representatives of counties and municipalities and others.

(4) ASSISTANCE. State agencies shall assist the council in fulfilling its duties to the fullest extent possible.

History: 1989 a. 335; 1993 a. 75; 1995 a. 227 s. 904; Stats. 1995 s. 287.22; 1997 a. 243; 2003 a. 33.

287.23 Financial assistance for responsible units. (1) DEFINITIONS. In this section:

(ar) "Avoided disposal cost" means the amount of the cost of disposing of solid waste that a responsible unit avoids as a result of operating a solid waste management program with one or more of the components specified in s. 287.11 (2) (a) to (h) during the year for which an application is submitted under sub. (4).

(d) "Prevailing market rate" means a reasonable estimate of the price for a recyclable material that will be paid by a collection facility serving the area within the boundaries of a responsible unit during the year for which an application for assistance is submitted.

(2) DEPARTMENT POWERS AND DUTIES. (a) The department shall develop, implement, and administer a program to provide financial assistance to responsible units. The department shall develop criteria for reporting on and evaluating the program.

(b) Each year the department shall review the recycling programs of at least 5 percent of the recipients of grants in the previous year to ensure that programs and activities funded by grants under this section meet the requirements of this section.

(3) ELIGIBILITY. (ae) Subject to par. (am), a responsible unit is eligible for assistance under this section for a year after 2000 if the responsible unit has been determined under s. 287.11 to have an effective recycling program.

(am) The department may withhold all or a portion of the assistance for a responsible unit for one year if the department determines any of the following:

1. That the responsible unit has not maintained an effective recycling program following approval of the recycling program under s. 287.11.

2. That the responsible unit spent funds received under this section on activities not eligible for assistance under par. (b).

(b) Only expenses, including capital expenses, anticipated to be incurred for planning, constructing or operating a recycling program with one or more of the components specified in s. 287.11 (2) (a) to (h) and for complying with the prohibition under s. 287.07 (2) during the year for which an application is submitted under sub. (4) are eligible for assistance under the program.

(d) A responsible unit or its designee may not use assistance under this section to pay at retail at a collection facility any amount for a recyclable material in excess of the prevailing market rate.

(e) No expenses related to the purchase of plastic containers for the collection of recyclable materials are eligible for assistance under the program unless the recycled content of the plastic containers is at least 25 percent by weight.

(4) APPLICATION. A responsible unit that seeks assistance under the program shall submit an application to the department. To qualify for a full grant, the responsible unit must submit the application no later than October 1 in the year preceding the year for which the assistance is sought. For the purpose of this subsection and sub. (5p), if an application is postmarked, it is considered to be submitted on the date that it is postmarked. An application shall include all of the following:

(a) The information specified in s. 287.09 (2) (b).

(b) Documentation that the assistance, when combined with future anticipated assistance, will result in the responsible unit doing one of the following:

1. Making continued progress in creating an effective recycling program under s. 287.11 by January 1, 1995.

2. Maintaining an effective recycling program following approval of the recycling program under s. 287.11.

(c) If the responsible unit received a grant under this section or 1989 Wisconsin Act 335, section 85 (5) for the grant period preceding the grant period for which the application is being made, a financial report on the activities that have been or are likely to be funded by the grant in that preceding grant period, including a statement of whether any portion of that grant was or is likely to be spent on activities not related to the requirements of this subchapter and, if so, how much of the grant was or is likely to be spent on those activities.

(d) Beginning with the application submitted for 1993, information on financial incentives that the responsible unit is using or

plans to use to encourage reduction of the amount of solid waste generated or disposed of in the region.

(e) Information concerning user fees used or proposed to be used to finance costs of the recycling program and, if no user fees are used, an explanation of why they are not used.

(5b) GRANT AWARD. The department shall award a grant under this subsection to each eligible responsible unit that submits a complete grant application under sub. (4) for expenses allowable under sub. (3) (b). The department shall determine the amount of the grants under this subsection as follows:

(a) Determine the total amount that would have been awarded under this section for 1999 if no grants had been reduced under sub. (5p).

(b) Determine the amount that each responsible unit received under this section for 1999 or the amount that the responsible unit would have received.

(c) Award to a responsible unit the proportion of the total amount available for grants under this section that is equal to the proportion of the amount determined under par. (a) that the responsible unit received, or would have received, for 1999 as determined under par. (b).

(5p) LATE APPLICATIONS. (a) If a responsible unit submits its application under sub. (4) after October 1 but no later than October 10, the amount of the responsible unit's grant is 95 percent of the amount determined under sub. (5b).

(b) If a responsible unit submits its application under sub. (4) after October 10 but no later than October 20, the amount of the responsible unit's grant is 90 percent of the amount determined under sub. (5b).

(c) If a responsible unit submits its application under sub. (4) after October 20 but no later than October 30, the amount of the responsible unit's grant is 75 percent of the amount determined under sub. (5b).

(d) If a responsible unit submits its application under sub. (4) after October 30, the responsible unit is not eligible for the grant.

(6) DISBURSEMENT. The department shall disburse a grant to the applicant after approval, but no later than June 1 of the year for which the grant is made.

History: 1989 a. 335; 1991 a. 39; 1993 a. 16, 75; 1995 a. 27; 1995 a. 227 s. 905; Stats. 1995 s. 287.23; 1997 a. 27, 41; 1999 a. 9; 2001 a. 16; 2011 a. 32.

Cross−reference: See also ch. NR 542, Wis. adm. code.

287.24 Recycling consolidation grants. (1) In this section, "population" means the number of persons residing in a region, as determined by the department based upon the most recent decennial or special census or the most recent, subsequent population estimate under s. 16.96.

(2) The department shall make a grant from the appropriation account under s. 20.370 (6) (bw) for a year to a responsible unit that has been determined under s. 287.11 to have an effective recycling program if any of the following applies:

(a) The responsible unit is a county.

(b) The responsible unit is a federally recognized Indian tribe or band.

(c) The responsible unit has a population of 25,000 or more and consists of one or more municipalities.

(d) The responsible unit is not eligible under par. (a), (b), or (c) but one of the following applies:

1. By October 1 in the year preceding the year for which the grant is made, the responsible unit consists of what had been at least 2 responsible units.

2. By October 1 in the year preceding the year for which the grant is made, the responsible unit enters into a cooperative agreement with another responsible unit for the joint provision of at least one of the following elements of an effective recycling program:

a. Performing comprehensive program planning.

b. Collecting and transporting recyclable materials.

c. Sorting recyclable materials at a materials recovery facility.

d. Developing and distributing educational materials relating to waste reduction, reuse, and recycling.

e. Carrying out a program of technical assistance to businesses and owners and occupants of multifamily dwellings to increase the availability and convenience of recycling.

f. Any other program element approved by the department.

(3) Subject to sub. (4), the department shall determine the amount of a grant to a responsible unit under this section as follows:

(a) Divide the amount available under s. 20.370 (6) (bw) for the year by the total population of the responsible units eligible under sub. (2).

(b) Multiply the amount determined under par. (a) by the population of the responsible unit.

(4) A grant under this section plus a grant under s. 287.23 may not exceed the allowable expenses under s. 287.23 (3) (b).

History: 2011 a. 32.

287.27 Materials recovered for reuse or recycling. (1) DEFINITION. In this section, "materials recovery facility" means a facility where the materials specified in sub. (4) (b) or s. 287.07 (3) or (4), not mixed with other solid waste, are processed for reuse or recycling by conversion into a consumer product or a product which is used as a raw material in a commercial or industrial process. "Materials recovery facility" does not include a facility operated by a pulp or paper mill which utilizes fiber or paper that has been separated from waste for use as a raw material in a commercial product.

(2) REPORTS BY MATERIALS RECOVERY FACILITIES. Annually, the owner or operator of a materials recovery facility shall report to the department the amount of each of the materials specified in s. 287.07 (3) or (4) and any other materials specified by the department under sub. (4) (b) that the materials recovery facility receives and that were recovered from waste generated in this state.

(3) REPORTS BY TRADE ASSOCIATIONS. A trade association may submit a report to the department containing the information required under sub. (2) in aggregate form for 2 or more materials recovery facilities that are affiliated with the trade association. A report under this subsection shall identify each materials recovery facility for which it is reporting. A materials recovery facility that is covered by a report under this subsection shall be considered to be in compliance with sub. (2).

(4) RULES. The department, by rule, may do any of the following:

(a) Specify the form and manner of reporting under subs. (2) and (3).

(b) Specify additional materials that the owner or operator of a materials recovery facility must report under sub. (2) or (3).

(c) Exempt certain materials recovery facilities from all or a part of the reporting requirements of subs. (2) and (3) if the reports are not needed for the calculation of solid waste reuse or recycling rates under s. 287.19 (1) (a) 2.

History: 1997 a. 60.

SUBCHAPTER IV

LITTERING

287.81 Littering. (1) In this section:

(a) "Aircraft" means any structure invented, used or designed for navigation or flight in the air.

(am) "Highway" has the meaning given in s. 340.01 (22).

(as) "Large item" means an appliance, an item of furniture, a tire, a vehicle, a boat, an aircraft, building materials, or demolition waste.

(b) "Vehicle" has the meaning given in s. 340.01 (74), but includes an electric personal assistive mobility device, as defined

in s. 340.01 (15pm), and an all−terrain vehicle, as defined in s. 340.01 (2g).

(c) "Waters of the state" has the meaning given in s. 281.01 (18).

(2) Except as provided in sub. (3), a person who does any of the following may be required to forfeit not more than $500:

(a) Deposits or discharges any solid waste on or along any highway, in any waters of the state, on the ice of any waters of the state or on any other public or private property.

(b) Permits any solid waste to be thrown from a vehicle operated by the person.

(c) Fails to remove within 30 days or otherwise abandons any automobile, boat or other vehicle in the waters of the state.

(d) Owns an aircraft that has crashed in the waters of the state and fails to remove the aircraft from those waters within 30 days after the crash, within 30 days after June 15, 1991, or within 30 days after the national transportation safety board pursuant to an investigation under 49 CFR Part 831 authorizes its removal, whichever is latest.

(2m) Except as provided in sub. (3), a person who deposits any large item on or along any highway, in any waters of the state, on the ice of any waters of the state, or on any other public or private property shall forfeit not more than $1,000.

(3) (a) Subsections (2) (a) and (2m) do not apply to a person who places solid waste in a receptacle designed for solid waste storage that is located along a highway or on other public or private property.

(b) Subsections (2) and (2m) do not apply to a person who deposits or discharges solid waste in conformance with chs. 30, 31, 281 to 285 or 289 to 299 or a permit, license or other approval issued by the department under those chapters.

History: 1989 a. 335; 1991 a. 19; 1995 a. 227 s. 917; Stats. 1995 s. 287.81; 2001 a. 90; 2009 a. 368; 2011 a. 265.

Discarding a cigarette butt onto a highway violates this section's prohibition of discharging "any solid waste on or along any highway." State v. Iverson, 2015 WI 101, 365 Wis. 2d 302, 871 N.W.2d 661, 14−0515.

SUBCHAPTER V

ENFORCEMENT AND PENALTIES

287.91 Enforcement; duty of department of justice; expenses. (1) The attorney general shall enforce this chapter except for ss. 287.07, 287.08 and 287.81 and all rules promulgated under this chapter except under those sections.

(2) Notwithstanding sub. (1) and s. 287.95 (3) (a), the attorney general may enforce s. 287.07 (3), (4), and (5) by seeking injunctive relief against any person violating those provisions.

(3) The circuit court for Dane County or for any other county where a violation occurred in whole or in part has jurisdiction to enforce this chapter or related rules by injunctive and other relief appropriate for enforcement.

(4) The department of natural resources shall reimburse the department of justice for the expenses incurred in enforcing this chapter from the appropriation under s. 20.370 (2) (ma).

History: 1989 a. 335; 1993 a. 75; 1995 a. 227 s. 919; Stats. 1995 s. 287.91; 2009 a. 50.

287.93 Inspections. Any officer, employee or authorized representative of the department may enter and inspect any place at which a solid waste facility is located or is being constructed or installed, or inspect any record relating to solid waste management of any person who generates, transports, treats, stores or disposes of solid waste, at any reasonable time for the purpose of ascertaining the state of compliance with this chapter and rules promulgated under this chapter. No person may refuse entry or access to any officer, employee or authorized representative of the department who requests entry or access for purposes of inspection, and who presents appropriate credentials. No person may obstruct, hamper or interfere with any such inspection. The department, if requested, shall furnish to the owner or operator of the premises a report setting forth all facts found that relate to compliance status.

History: 1989 a. 335; 1995 a. 227 s. 920; Stats. 1995 s. 287.93.

287.95 Penalties concerning land disposal and incineration; citations. (1) Any person who violates s. 287.07 (1m), (4m), or (5) may be required to forfeit $50 for a first violation, may be required to forfeit $200 for a 2nd violation and may be required to forfeit not more than $2,000 for a 3rd or subsequent violation.

(2) (a) Any person who violates s. 287.07 (2) or 287.08 before January 1, 1995, is not subject to a penalty.

(b) After December 31, 1994, any person who violates s. 287.07 (2) or 287.08 may be required to forfeit $50 for a first violation, may be required to forfeit $200 for a 2nd violation and may be required to forfeit not more than $2,000 for a 3rd or subsequent violation.

(3) (a) Any person who violates s. 287.07 (3) and (4) before January 1, 1997, is not subject to a penalty.

(b) After December 31, 1996, any person who violates s. 287.07 (3) and (4) may be required to forfeit $50 for a first violation, may be required to forfeit $200 for a 2nd violation and may be required to forfeit not more than $2,000 for a 3rd or subsequent violation.

(4) The department may follow the procedures for the issuance of a citation under ss. 23.50 to 23.99 to collect a forfeiture for the violations under subs. (1), (2) (b) and (3) (b).

History: 1989 a. 335, 359; 1995 a. 227 s. 921; Stats. 1995 s. 287.95; 2009 a. 50, 86; 2011 a. 258.

287.97 Penalties. Any person who violates this chapter, except s. 287.07, 287.08, 287.17, or 287.81, or any rule promulgated under this chapter, except under s. 287.07, 287.08 or 287.81, may be required to forfeit not less than $10 nor more than $1,000 for each violation.

History: 1989 a. 335; 1995 a. 227 s. 922; Stats. 1995 s. 287.97; 2009 a. 50.