

Chapter NR 544

EFFECTIVE RECYCLING PROGRAMS

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Note: Corrections made under s. 13.93 (2m) (b) 7., Stats., Register, August, 1997, No. 500.

NR 544.01 Purpose. The purpose of this chapter is to establish criteria under s. 287.11, Stats., for determining whether a responsible unit's or out-of-state unit's program is an effective recycling program. In conjunction with s. 287.09 (2) (a), Stats., this chapter will guide the development of effective recycling programs.

Note: Under s. 287.23 (3), Stats., only responsible units that have been determined to have effective recycling programs shall be eligible to receive state financial assistance for recycling beginning in 1995. In addition, under s. 287.23 (7), Stats., only responsible units and out-of-state units having effective recycling programs under this chapter are exempt from the landfill and incinerator restrictions in s. 287.07 (3) and (4), Stats.

History: Cr. Register, September, 1993, No. 453, eff. 10-1-93.

NR 544.02 Applicability. The provisions of this chapter apply to all the following:

(1) Responsible units or out-of-state units seeking approval of their solid waste management program as an effective recycling program under s. 287.11, Stats.

(2) Responsible units or out-of-state units that have been approved and responsible units or out-of-state units that are on probation.

(3) The owners and operators of incinerators and landfills that accept waste from out-of-state.

History: Cr. Register, September, 1993, No. 453, eff. 10-1-93.

NR 544.03 Definitions. In this chapter:

(1) "Adjacent state" means the state of Michigan, Illinois, Iowa or Minnesota.

(2) "Bi-metal container" means a container for carbonated or malt beverages that is made primarily of a combination of steel and aluminum.

(3) "Container board" means corrugated paperboard used in the manufacture of shipping containers and related products.

(4) "Curbside collection" means a system for collecting recyclable materials from residential properties, including from the curb, alley, backyard or roadside, and for transporting the recyclable materials for processing and marketing.

(5) "Current service area" has the meaning specified in s. 287.07 (7) (b) 1. a., Stats.

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

(7) "Drop off collection" means a system for collecting recyclable materials in which the recyclable materials are taken by individuals to designated collection sites and deposited into designated containers from which the recyclable materials are transported for processing and marketing.

(8) "Effective siting program" has the meaning specified in s. 287.12 (3), Stats.

Note: 1997 Wis. Act 27 repealed s. 287.12, Stats.

(8am) "Floodplain" means the land which has been or may be hereafter covered by flood water during the regional flood as defined in ch. NR 116, and includes the floodway and the flood fringe as defined in ch. NR 116.

(9) "HDPE" means high density polyethylene.

(10) "LDPE" means low density polyethylene.

(11) "Magazines" means magazines and other materials printed on similar paper.

(12) "Materials recovery facility" means a facility where 2 or more of the materials specified in s. 287.07 (3) or (4), Stats., 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. A materials recovery facility does not include a facility operated by a pulp or paper mill which utilizes source separated secondary fiber or paper for use as a raw material in a commercial product.

(13) "Multiple-family dwelling" means a property containing 5 or more residential units, including those which are occupied seasonally.

(14) "Multiple-municipality responsible unit" means a responsible unit that is made up of more than one unit of government or solid waste management system.

(16) "Municipal solid waste treatment facility" has the meaning specified in s. 287.12 (1) (a), Stats.

Note: 1997 Wis. Act 27 repealed s. 287.12, Stats.

(17) "Municipal waste landfill" has the meaning specified in s. 289.01 (22), Stats.

(18) "Municipality" has the meaning specified in s. 287.01 (4), Stats.

(19) "Newspaper" means a newspaper and other materials printed on newsprint.

(20) "Non-adjacent state" means a state, province or country which is not an adjacent state or the state of Wisconsin.

(21) "Non-residential facilities and properties" means commercial, retail, industrial, institutional and governmental facilities and properties. This term does not include multiple family dwellings.

(21am) "Nuisance conditions" means conditions which result in an unreasonable threat or danger to public health, safety or welfare, or to the environment.

(22) "Office paper" means high grade printing and writing papers from offices in non-residential facilities and properties. Printed white ledger and computer printout are examples of office

paper generally accepted as high grade. This term does not include industrial process waste.

(23) "Operating solid waste treatment facility" has the meaning specified in s. 287.07 (7) (b) 1. b., Stats.

(24) "Out-of-state solid waste" means solid waste generated outside of Wisconsin.

(25) "Out-of-state unit" has the meaning specified in s. 287.01 (5), Stats.

(26) "Person" has the meaning specified in s. 287.01 (5m), Stats.

(27) "PETE" means polyethylene terephthalate.

(28) "PP" means polypropylene.

(29) "PVC" means polyvinyl chloride.

(30) "Postconsumer waste" has the meaning specified in s. 287.01 (7), Stats.

(31) "Prohibited waste item" means any item subject to s. 287.07 (3) or (4), Stats.

(32) "Public information and education program" means a program to inform citizens, businesses and institutions why and how to participate in community recycling, reduce overall waste and encourage personal actions that result in voluntary compliance.

(33) "Recyclable materials" means materials listed in s. 287.07 (1m) to (4), Stats.

(34) "Region" has the meaning specified in s. 287.01 (8), Stats.

(35) "Residual material" means recyclable materials collected for recycling that are damaged or contaminated during collection or processing to the point that they are no longer marketable.

(36) "Responsible unit" has the meaning specified in s. 287.01 (9), Stats.

(37) "Reuse" means using a product more than once in its same form for the same purpose.

(38) "Rural municipality" means a municipality with a permanent population of 70 persons per square mile or fewer, as determined under s. 287.23 (1) (c), Stats.

(39) "Single material recovery facility" means a facility where only one of the materials specified in s. 287.07 (3) and (4), Stats., not mixed with other solid waste, is 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.

(39m) "Solid waste" has the meaning specified in s. 289.01 (33), Stats.

(40) "Volume based fee system" means a system in which fees are charged for solid waste management services in proportion to the volume or weight of materials disposed.

(41) "Waste reduction" means decreasing the quantity of materials or products that are generated as waste.

(41am) "Wetland" has the meaning specified in s. 23.32 (1), Stats.

(42) "Yard waste" has the meaning specified in s. 287.01 (17), Stats.

History: Cr. Register, September, 1993, No. 453, eff. 10-1-93; correction in (17) made under s. 13.93 (2m) (b) 7., Stats., Register January 2003 No. 565.

NR 544.04 Required components of an effective recycling program. The effective recycling program of a responsible unit or out-of-state unit shall include all of the following components:

(1) A public information and education program to address recycling of materials specified in s. 287.07 (1m) to (4), Stats., and waste reduction and reuse efforts at single family and 2 to 4 unit residences, multiple-family dwellings and non-residential facili-

ties and properties. It shall include program start up and continuing program information, and consumer and youth education.

Note: Major appliances must be managed in compliance with s. 285.59, Stats., and ch. NR 488.

(2) An ordinance that contains the provisions specified in s. NR 544.06.

(3) A system which meets the provisions of s. NR 544.05 for collecting from single family and 2 to 4 unit residences the materials specified in s. 287.07 (3) and (4), Stats.

(4) A system for single family and 2 to 4 unit residences which meets the provisions of s. NR 544.05 for processing and marketing of the recyclable materials specified in s. 287.07 (3) and (4), Stats., which have been separated for recycling or recovered from solid waste in as pure a form as is technically feasible.

(5) Equipment and staff to implement the recycling program serving single family and 2 to 4 unit residences which may include contracting for services, staff, supplies and equipment from vendors.

(6) A volume based fee system for solid waste to generate revenue equal to the costs for solid waste management other than those reimbursed by the state. This requirement does not apply to any responsible unit or out-of-state unit that separates for recycling at least 25% by volume or by weight of the solid waste collected within the region by the responsible unit or the out-of-state unit or by any person under contract with the responsible unit or the out-of-state unit. A responsible unit or out-of-state unit may demonstrate that 25% by weight of the solid waste collected is being recycled, using the following formula:

$$\% \text{ recycled} = \frac{(\text{tonnage of recyclable materials collected})}{(\text{tonnage of solid waste collected for disposal} + \text{tonnage of recyclable materials collected})} \times 100$$

A responsible unit or out-of-state unit may demonstrate that 25% by volume of the solid waste collected is being recycled, using methods specified by the department.

(7) A requirement that owners of multiple family dwellings and non-residential facilities and properties provide for the recycling at their facilities and properties of materials specified in s. 287.07 (3) and (4), Stats., as required by the recycling ordinance under s. NR 544.06.

(8) A prohibition against disposing of in a solid waste facility or burning in a solid waste treatment facility the materials specified in s. 287.07 (3) and (4), Stats., which have been separated for recycling.

(9) A means of adequately enforcing the requirements of the effective recycling program.

(10) Provisions for the management of the postconsumer waste that is generated within the responsible unit or out-of-state unit and that is not separated or recovered for recycling in a manner consistent with the highest feasible solid waste management priority under s. 287.05 (12), Stats.

(11) A reasonable effort to reduce to the maximum extent feasible, the amount, by weight, of each material specified in s. 287.07 (3) and (4), Stats., 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.

History: Cr. Register, September, 1993, No. 453, eff. 10-1-93.

NR 544.05 Collection and processing systems.

(1) **COLLECTION SYSTEMS.** (a) *General requirements.* Except as provided in sub. (3), systems for collecting the materials specified in s. 287.07 (3) and (4), Stats., from single family and 2 to 4 unit residences shall meet the following requirements:

1. Separate the materials from other solid waste prior to collection and maintain that separation during the collection process.

2. Prohibit the compaction of glass containers with newspaper or with municipal solid waste during collection.

3. Maintain the materials collected in marketable condition.

4. Beginning in 1997, meet the collection standards in Table 1, except that a multiple-municipality responsible unit with a membership of rural and other municipalities may meet a prorated standard for each material by the entire responsible unit.

(b) *Collection systems in municipalities of 5,000 or greater.* A municipality with a population of 5,000 or greater shall provide a system for collection of the materials specified in s. 287.07 (3) and (4), Stats., from each single family residence and 2 to 4 unit residence. The collection system shall meet the requirements of either subd. 1. or 2.

1. a. Curbside collection at least monthly of newspaper, glass containers, aluminum containers, steel containers, PETE plastic containers, HDPE plastic containers, and either corrugated paper and other container board, or magazines.

b. Curbside or drop off collection of bi-metal containers; PVC plastic containers, LDPE plastic containers, PP plastic containers, polystyrene plastic containers, foam polystyrene packaging, waste tires, and corrugated paper and other container board, or magazines not collected under subd. 1. a.

2. A drop off collection system which achieves both of the following:

a. Collection results of at least 90% of the standards for the municipality in Table 1 for the 6 month period prior to submitting an application for program approval and for subsequent calendar years through 1996, and 100% of the standards thereafter.

b. Utilization of the drop off collection system by at least 80% of the single family and 2 to 4 unit residences in the municipality as documented by drop-off site monitoring records.

3. Each municipality which utilizes a drop off collection system shall ensure that the size of the collection facility and hours of operation are adequate to meet the needs of the residents to recycle the materials specified.

(c) *Collection systems in municipalities under 5,000.* A municipality with a population under 5,000 shall provide to each single family and 2 to 4 unit residence either curbside or drop off collection service or a combination for the materials specified in s. 287.07 (3) and (4), Stats. A municipality which provides drop-off collection service shall ensure that the size of the facility and its hours of operation are adequate to meet the needs of single family and 2 to 4 unit residences to recycle the materials specified.

(2) **PROCESSING SYSTEMS.** (a) Processing systems utilized as part of an effective recycling program shall produce materials or products of marketable quality.

(b) Except as provided in sub. (3), a responsible unit or out-of-state unit shall use one or both of the following processing systems as part of its effective recycling program:

1. A materials recovery facility which has self-certified under s. NR 544.16.

2. One or more single material recovery facilities.

(3) **ALTERNATIVE COLLECTION AND PROCESSING SYSTEMS.** (a) A responsible unit or out-of-state unit may apply to the department under s. NR 544.08 (3) for approval of an alternative collection system that does not comply with the requirements under sub. (1) (a) 1. and 2., (b) and (c).

(b) A responsible unit or out-of-state unit may apply to the department under ss. NR 502.08 and 544.08 (3) for approval of an alternative processing system that does not comply with the requirements under sub. (2) (b).

Note: Mixed waste processing and co-collection systems will apply for approval under this section.

History: Cr. Register, September, 1993, No. 453, eff. 10-1-93.

NR 544.06 Components of a recycling ordinance.

(1) A responsible unit or out-of-state unit seeking approval

under this chapter shall adopt and enforce a recycling ordinance meeting the requirements of this section, except that a multiple-municipality responsible unit is not required to adopt an ordinance for any of its members which have and enforce their own ordinances under this section. No unit of government in a multiple-municipality responsible unit other than the responsible unit may be required to adopt or enforce an ordinance under this section.

Note: A responsible unit is authorized by s. 287.09 (3) (b), Stats., to adopt an ordinance to enforce the recycling or other program established in compliance with s. 287.07 (1m) to (4), Stats., and the priorities under s. 287.05 (12), Stats.

(2) At a minimum, a recycling ordinance required under s. NR 544.04 (2) shall include all of the following:

(a) A requirement that the occupants of single family and 2 to 4 unit residences, multiple-family dwellings and non-residential facilities and properties in the region either separate for recycling the materials specified in s. 287.07 (1m) to (4), Stats., from post-consumer waste generated in the region or send the material to a licensed processing facility that recovers for recycling those materials from solid waste in as pure a form as is technically feasible. This requirement does not apply to solid waste which is burned as a supplemental fuel at a facility if less than 30% of the heat input to the facility is derived from the solid waste burned as supplemental fuel in accordance with s. 287.07 (7) (bg), Stats.

(b) A requirement that owners or designated agents of multiple-family dwellings in the region do all of the following unless postconsumer waste generated in those properties is treated at a processing facility that recovers for recycling the materials specified in s. 287.07 (3) and (4), Stats., from that solid waste in as pure a form as is technically feasible:

1. Provide adequate, separate containers for the recycling program established in compliance with the ordinance.

2. Notify tenants in writing at the time of renting or leasing the dwelling and at least semi-annually thereafter about the programs under this section.

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

4. Notify tenants of reasons to reduce and recycle solid waste, which materials are collected, how to prepare recyclable materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address and phone number.

(c) A requirement that owners or designated agents of non-residential facilities and properties in the region do all of the following unless postconsumer waste generated in those facilities and properties is treated at a processing facility that recovers the materials specified in s. 287.07 (3) and (4), Stats., from solid waste in as pure a form as is technically feasible:

1. Provide adequate, separate containers for the program established under this section.

2. Notify in writing, at least semi-annually, all users, tenants and occupants of the properties about the programs under this section.

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

4. Notify users, tenants and occupants of reasons to reduce and recycle, which materials are collected, how to prepare recyclable materials in order to meet the processing requirements of the recycling program, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address and phone number.

(d) A prohibition on disposing of in a solid waste disposal facility or burning in a solid waste treatment facility the materials specified in s. 287.07 (3) to (4), Stats., which have been separated for recycling.

(e) Provisions for enforcement, including the following:

1. Appropriate penalties for violations of the various provisions of the ordinance which are consistent with the forfeitures under ss. 287.95 and 287.97, Stats.

2. Authorization for the use of citations to be issued for violations of the ordinance.

Note: Section 66.0113, Stats., authorizes the use of citations to be issued for ordinance violations.

3. Adequate inspection authority to ascertain compliance with the ordinance.

History: Cr. Register, September, 1993, No. 453, eff. 10-1-93.

NR 544.07 Record-keeping requirements. A responsible unit or out-of-state unit subject to this chapter shall maintain records supporting its application and documenting its compliance with this chapter. The records shall be kept at a single location and be available for department review. The responsible unit or out-of-state unit shall retain its records for at least 3 years following the submittal of that year's program report.

History: Cr. Register, September, 1993, No. 453, eff. 10-1-93.

NR 544.08 Application for initial program approval. (1) APPLICATION. A responsible unit or out-of-state unit seeking an initial determination that its program is an effective recycling program under this chapter shall apply to the department under this section. For all measurements, a responsible unit or out-of-state unit shall use sampling methods or measurements specified by the department. Applications shall be submitted by April 1, 1994, to be considered for initial approval for 1995, and by April 1 for initial approval in subsequent years. Applications shall be submitted on forms supplied by the department.

Note: This form may be obtained from the Department of Natural Resources, Bureau of Waste Management at 101 S. Webster St., P.O. Box 7921, Madison, WI 53707.

(2) CONTENTS OF APPLICATION. The application shall provide information on the current status of the recycling program and the program that will be in effect by 1995 as follows:

(a) A description of the public information and education program under s. NR 544.04 (1).

(b) Certified copies of all ordinances containing the provisions specified in s. NR 544.06.

(c) A description of the collection system for single-family residences and 2 to 4 family residential dwellings units.

(d) A description of the systems for processing and marketing recyclable materials collected from single family residences and 2 to 4 family residential dwelling units.

(e) An estimate of the total amount of recyclable materials collected in the calendar year prior to the year of application.

(f) A description of the equipment and staffing for its recycling program or contracts for services, staff, supplies and equipment from vendors.

(g) A description of its system of enforcement.

(h) A description of the volume based fee system in place or the amount of solid waste that has been separated for recycling, by volume or by weight, from the solid waste collected within the region by the responsible unit or out-of-state unit or by any person under contract with the responsible unit or out-of-state unit.

(i) A description of provisions for recycling at multiple-family dwellings and non-residential facilities and properties.

(j) A description of opportunities for residents to reduce, reuse or recycle those items specified in s. 287.07 (1m) and (2), Stats., including opportunities provided by the private sector.

(k) A description of provisions for the management of solid waste that is generated in the responsible unit or out-of-state unit and that is not separated or recovered for recycling, and whether that waste is managed in a manner consistent with the highest feasible solid waste management priority under s. 287.05 (12), Stats.

(L) A description of means used to reduce to the maximum extent feasible, the amount, by weight, of each material specified in s. 287.07 (3) and (4), Stats., that is generated as solid waste

within the region and disposed of in a solid waste facility or converted into fuel or burned without energy recovery in a solid waste treatment facility.

(m) The name of the materials recovery facility, if a materials recovery facility is included as a component of the effective recycling program.

(3) ALTERNATIVE COLLECTION OR PROCESSING SYSTEMS. A responsible unit or out-of-state unit that is seeking approval of an alternative to the systems specified in s. NR 544.05 (1) and (2) shall submit to the department the information required in sub. (2) and the following information by April 1, 1994, to be considered for initial approval for 1995, or by April 1 for initial approval in any subsequent year:

(a) A description of the proposed alternative, including the following:

1. The name of the operator or provider or both of the collection, processing and marketing services.

2. Cost estimates of the proposed program.

(b) A comparison of the advantages, disadvantages and costs of the proposed alternative to the systems described in s. NR 544.05 (1) and (2).

(c) A demonstration that the proposed alternative systems will meet the collection standards specified in Table 1.

(d) A description of operating procedures that will be used to minimize contamination and loss of recyclable materials during collection and processing.

(e) A demonstration that the proposed systems will recover the materials specified in s. 287.07 (3) and (4), Stats., from solid waste in as pure a form as is technically feasible and that the materials are marketable.

(f) A demonstration of the amount of residual materials resulting from the proposed alternative systems.

History: Cr. Register, September, 1993, No. 453, eff. 10-1-93.

NR 544.09 Initial program approval process. Upon receipt of a complete application for program approval, the department shall either approve or disapprove the application in writing within 90 days. The determination of the department shall be based upon compliance with this chapter. An approval may be conditioned upon any requirements necessary to comply with this chapter.

(1) APPROVAL OF INITIAL APPLICATION. The department shall approve a responsible unit's or out-of-state unit's recycling program as effective if the program meets the following:

(a) The program includes the components required under s. NR 544.04.

(b) The program includes the elements required under s. NR 544.08.

(c) The program is projected to meet, beginning in 1997, the collection standards in Table 1.

(d) The out-of-state unit's program complies with s. NR 544.15.

(2) DENIAL OF INITIAL APPLICATION FOR APPROVAL. The department may deny a responsible unit's or out-of-state unit's application for initial approval for any of the following reasons:

(a) Failure to submit a complete application under s. NR 544.08.

(b) Absence of a program component under s. NR 544.04.

(c) Failure to demonstrate that the program is likely to achieve the collection standards in Table 1 by 1997.

(d) Failure to comply with any provision of this chapter.

History: Cr. Register, September, 1993, No. 453, eff. 10-1-93.

NR 544.10 Annual program report. (1) REPORT. A responsible unit or out-of-state unit with an approved effective recycling program shall submit a report to the department under this section by April 30 of each year, beginning in 1995. For all

measurements, a responsible unit or out-of-state unit shall use sampling methods or measurements specified by the department. The report shall demonstrate to the satisfaction of the department that the recycling program meets the requirements of this chapter and any conditions of the approved program. Reports shall be submitted on forms supplied by the department.

Note: This form may be obtained from the Department of Natural Resources, Bureau of Waste Management at 101 S. Webster St., P.O. Box 7921, Madison, WI 53707.

(2) CONTENTS OF REPORT. The report shall consist of the following:

(a) A statement indicating that the program as initially approved is operating or, if there have been changes, a description of those changes.

(b) A statement that the recycling ordinance is still in effect and a report on efforts to enforce that ordinance.

(c) A statement that the collection system for single family and 2 to 4 unit residences is operating, and, if there have been changes, a description of those changes.

(d) For each year, a report on the following:

1. The tonnage collected of each material listed in Table 1 for each municipality, except that a multiple-municipality responsible unit, with a combination of rural and other municipalities, may meet a prorated standard for each material for the entire responsible unit. If the tonnage collected does not meet the standards in Table 1, an explanation for the failure to meet those standards and a proposal for improving collection in the following year.

2. If the responsible unit or out-of-state unit does not have a volume-based fee system under s. NR 544.04 (6), the tonnage of solid waste collected within the region by the responsible unit or by any person under contract with the responsible unit.

(f) A statement identifying how recyclables collected from single family and 2 to 4 unit residences are processed and marketed. Weight slips for marketed material and copies of contracts shall be kept on file.

(g) A statement on the participation or compliance at multiple-family dwellings and non-residential facilities and properties including documentation of inspections and response to complaints regarding the recycling program.

(h) A statement on opportunities for residents to reduce, reuse or recycle those materials specified in s. 287.07 (1m) and (2), Stats., including opportunities at private facilities accessible to the public.

(i) A description of provisions for the management of solid waste that is generated in the responsible unit's or out-of-state unit's region and that is not separated or recovered for recycling and whether that solid waste is managed in a manner consistent with the highest feasible solid waste management priority under s. 287.05 (12), Stats.

(j) A description of efforts to improve the effectiveness of the recycling program, including waste reduction and reuse initiatives and efforts to increase collection of recyclables.

History: Cr. Register, September, 1993, No. 453, eff. 10-1-93.

NR 544.11 Annual program report review process.

(1) The department shall review the annual program report of the responsible unit or out-of-state unit for the following:

(a) Compliance with the conditions of effective recycling program approval.

(b) Compliance with the requirements of this chapter.

(2) If the department finds that the responsible unit or out-of-state unit does not meet the requirements of sub. (1) (a) or (b), the department may take any of the following actions:

(a) Modify or condition the approval if the responsible unit or out-of-state unit has had minor problems in maintaining its effective recycling program in compliance with its program approval and the requirements of this chapter.

(b) Place the program on probation for no more than one year if the department determines that the responsible unit or out-of-state unit has had significant problems in maintaining its effective recycling program in compliance with its program approval or the requirements of this chapter and if it appears that compliance may be achieved within one year. A responsible unit or out-of-state unit under probation shall comply with s. NR 544.12.

(c) Terminate the program approval if the department determines that the responsible unit or out-of-state unit has had significant problems in maintaining its effective recycling program in compliance with its program approval or the requirements of this chapter and if it does not appear that compliance may be achieved within one year or for failure to satisfy the terms of its probationary approval.

(d) Grant an exemption from a collection standard in Table 1 if the responsible unit or out-of-state unit provides adequate justification for failure to meet the collection standard and demonstrates that a reasonable effort was made to meet the standard.

Note: The department intends to conduct program audits of at least 20% of all responsible units' programs each year.

History: Cr. Register, September, 1993, No. 453, eff. 10-1-93.

NR 544.12 Programs under probation. (1) A responsible unit or out-of-state unit which has received a probationary approval of its recycling program has an effective recycling program for the purposes of ss. 287.07 (7) and 287.23, Stats. A probationary approval may not exceed one year.

(2) A responsible unit or out-of-state unit which has received a probationary approval shall submit a plan to the department describing the actions it intends to take to meet the requirements of this chapter. The department shall review this plan and may attach conditions to its approval. A responsible unit's or out-of-state unit's recycling program shall be monitored by the department to ensure compliance with the probationary plan.

History: Cr. Register, September, 1993, No. 453, eff. 10-1-93.

NR 544.13 Responsible units and out-of-state units located in current service areas of facilities exempt under s. 287.07 (7) (b), Stats. A responsible unit or out-of-state unit that is located in the current service area of an operating solid waste treatment facility which is exempt under s. 287.07 (7) (b), Stats., and that uses that solid waste treatment facility, may be approved as an effective recycling program under this chapter if it meets the following requirements:

(1) It establishes a recycling program for aluminum, glass, steel and bi-metal containers.

(2) It provides for curbside collection of the non-combustible materials listed in sub. (1) in municipalities that have a population of 5,000 or greater.

History: Cr. Register, September, 1993, No. 453, eff. 10-1-93.

NR 544.14 Variances and exemptions. (1) GENERAL. A responsible unit or an out-of-state unit with an effective recycling program may request in writing a variance or the department may on its own initiative grant a variance to the requirements of s. 287.11 (2) (b) and (er), Stats., for up to one year.

(2) VARIANCES REQUESTED BY THE RESPONSIBLE UNIT. A responsible unit or an out-of-state unit with an effective recycling program may request a variance for up to one year to the requirements in s. 287.11 (2) (b) and (er), Stats., for a material identified in s. 287.07 (3) or (4), Stats., that is generated in the responsible unit's or out-of-state's region. The department shall grant a variance if it determines that the cost of selling processed material as defined in s. 287.11 (2m) (a) 2., Stats., exceeds any of the following:

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

(b) The cost of disposing of processed material.

(3) **VARIANCES INITIATED BY THE DEPARTMENT.** The department may, on its own initiative, grant to one or more responsible units or out-of-state units with effective recycling programs a variance to the requirements in s. 287.11 (2) (b) and (er), Stats., for up to one year for a material identified in s. 287.07 (3) or (4), Stats., that is generated in the responsible unit's or out-of-state unit's region if the department determines that the cost of selling processed material exceeds the amount under sub. (2) (a) or (b).

(b) The department may grant a responsible unit or out-of-state unit a variance to a requirement in s. 287.11 (2) (b) or (er), Stats., for up to one year for a material identified in s. 287.07 (3) or (4), Stats., in the event of an unexpected emergency.

(4) **EXEMPTIONS.** The department may grant exemptions from nonstatutory requirements of this chapter upon request of the responsible unit or out-of-state unit when the department determines that an exemption is needed to allow or encourage the management of solid waste in accordance with s. 287.05, Stats., and where the exemption will be consistent with the intent of this chapter. Before granting an exemption, the department shall take into account factors such as good cause, circumstances beyond the control of the responsible unit or out-of-state unit and financial hardship. When the circumstances for which the exemption was granted are no longer valid, the department shall rescind the exemption and revise the effective recycling program approval.

History: Cr. Register, September, 1993, No. 453, eff. 10-1-93.

NR 544.15 Out-of-state unit requirements. (1) In order for the recycling program of an out-of-state unit to be approved as an effective recycling program under this chapter, the program shall have the following elements:

(a) The program shall meet the criteria specified in s. NR 544.04.

(b) The program shall meet the recycling requirements imposed by the state in which the out-of-state unit is located.

(c) The solid waste management program shall be supported by a level of governmental financing which is comparable to a similarly situated responsible unit.

(d) The program shall include enforcement mechanisms and efforts which are comparable to a similarly situated responsible unit.

(e) The program shall provide for separation and recycling of a comparable number of materials which are separated and recycled by a similarly situated responsible unit.

(2) For purposes of comparing an out-of-state unit to a similarly situated responsible unit, the department shall consider the following:

(a) The population of each unit of government.

(b) The amounts of recyclable materials which are generated within the region of each unit.

(3) The department shall review the out-of-state unit's application and determine whether it has an effective recycling program as provided in s. NR 544.09. The department shall inform the out-of-state unit of its decision. If the department determines that the out-of-state unit has an effective recycling program, the department shall promulgate a rule designating the out-of-state unit as having an effective recycling program.

History: Cr. Register, September, 1993, No. 453, eff. 10-1-93.

NR 544.16 Materials recovery facilities used as part of an effective recycling program. The owner or operator of a materials recovery facility that serves as a component of a responsible unit's or out-of-state unit's effective recycling program shall certify to the department that the materials recovery facility meets the requirements of this section.

(1) The owner or operator of a materials recovery facility shall submit a self certification for the materials recovery facility on a form provided by the department. The self certification form shall be submitted to the department by February 1, 1994. Owners or

operators of materials recovery facilities that are constructed after February 1, 1994, or that initially provide service to a responsible unit or out-of-state unit after February 1, 1994, shall submit the self certification form to the department prior to initiating service to any responsible unit or out-of-state unit. The self certification shall contain the following:

Note: This form may be obtained from the Department of Natural Resources, Bureau of Waste Management, 101 S. Webster, P.O. Box 7921, Madison, WI, 53707.

(a) The name of the owner or operator, address and telephone number of the materials recovery facility.

(b) A description of the materials recovery facility and the days and hours during which services will be provided.

(c) A list of all the responsible units and out-of-state units using the materials recovery facility.

(d) A list of all recyclable materials accepted at the materials recovery facility.

(e) Certification that the storage capacity for recyclable materials is adequate to maintain the quality and quantity of the recyclable materials for markets.

(f) Certification that the owner or operator of the materials recovery facility will provide by February 1 of each year to each responsible unit and out-of-state unit sufficient information so that the responsible unit or out-of-state unit can comply with the reporting requirements under s. NR 544.10 (2) (d) 1. For all measurements, the owner or operator of the materials recovery facility shall use sampling methods or measurements specified by the department.

(g) Certification that the processing capacity of the materials recovery facility is adequate to accommodate the anticipated quantities of recyclable materials that will be received.

(h) Certification that the materials recovery facility produces recovered recyclable materials in accordance with market quality specifications.

(i) A statement of the total annual quantity of residual material generated at the materials recovery facility during the previous calendar year and the percentage of the total amount of incoming recyclable materials that was residual material during the previous calendar year and the procedures to be used to minimize residual material.

(j) A description of the procedures to be used to prevent nuisance conditions at the materials recovery facility.

(k) A statement of the types and maximum quantities of recyclable materials to be stored outdoors at any time and the procedures to be used to prevent discharge of contaminants to the environment from the stored recyclable materials.

(L) Certification that recyclable materials will not be stored in a wetland.

(m) Certification that recyclable materials will not be stored in a floodplain. This paragraph does not apply to a materials recovery facility at which recyclable materials were stored in a floodplain on or before November 1, 1992, provided that the area in which the recyclable materials are stored is not increased.

(n) Certification that the owner or operator of the materials recovery facility will maintain accurate records to document the types and quantities of recyclable materials processed and marketed for all responsible units and out-of-state units using the facility and will make the records available for inspection upon request by the department.

(o) Certification that the owner or operator of a materials recovery facility will comply with the landfill and incineration prohibitions under s. 287.07, Stats.

(2) The department shall maintain a list of materials recovery facilities that are self certified under this section by the owners or operators of the materials recovery facilities.

(3) The owner or operator of a materials recovery facility which is self certified under this section shall resubmit a self certification form in accordance with the requirements of this section

at least 60 days prior to moving the materials recovery facility to a different location.

(4) The owner or operator of a materials recovery facility which is self certified under this section shall provide written notification to the department as follows:

(a) At least 60 days prior to closing the materials recovery facility, or an anticipated interruption of service to a responsible unit or out-of-state unit for a period of more than one week.

(b) As soon as practicable after the occurrence of an unanticipated interruption of service to a responsible unit or out-of-state unit for a period of more than one week.

(c) By February 1 of each year, any changes in any of the information provided under sub. (1) that occurred during the previous year.

(5) The department shall use the information provided under this section during routine annual inspection of a materials recovery facility and as needed in response to complaints. If significant discrepancies are found by the department between actual operations and information submitted to the department under this section, the department may disqualify the materials recovery facility as a component of a responsible unit's or out-of-state unit's effective recycling program and take appropriate actions under s. NR 544.11 (2). A materials recovery facility may be disqualified from being a component of a responsible unit's or out-of-state unit's effective recycling program if any of the following conditions exist:

(a) Storage of recyclable materials in a wetland.

(b) Storage of recyclable materials in a floodplain, unless the recyclable materials were stored in the floodplain on or before November 1, 1992, and the area in which the storage occurs has not been increased.

(c) Storage of recyclable materials outdoors in a manner that renders them unmarketable.

(d) Failure to provide each responsible unit or out-of-state unit using the materials recovery facility with accurate information reflecting the previous calendar year's weights of each recyclable material processed by February 1 of the following year.

(e) Knowingly falsifying information provided in the self certification form.

(f) Failure to submit the information required in sub. (1), (3) or (4).

(g) Operation of the materials recovery facility in such a manner as to create nuisance conditions.

(h) Failure to operate the materials recovery facility in accordance with the self certification or other representations provided by the owner or operator under this section.

(6) The owner or operator of a materials recovery facility disqualified by the department under sub. (5) may resubmit a self certification form to the department after correcting all deficiencies. The recertified materials recovery facility may be used as a component of a responsible unit's or out-of-state unit's effective recycling program if an inspection by the department determines that the materials recovery facility is in compliance and is likely to remain in compliance with the requirements of this section.

History: Cr. Register, September, 1993, No. 453, eff. 10-1-93.

NR 544.17 Disposal and incineration of prohibited waste items; out-of-state solid waste. (1) GENERAL. No person may dispose of or treat any prohibited waste item in violation of s. 287.07, Stats.

(2) **DISPOSAL OR INCINERATION OF PROHIBITED WASTE ITEMS GENERATED OUTSIDE OF WISCONSIN.** No person may dispose of, convert into fuel or burn any prohibited waste item which is generated outside of Wisconsin at a licensed solid waste disposal facility or at a solid waste treatment facility in Wisconsin, after January 1, 1995, unless the following conditions are met:

(a) The department has determined that the out-of-state unit where the waste was generated has an effective recycling program as provided under s. 287.11, Stats., and this chapter.

(b) The department has determined that the out-of-state unit where the waste was generated is located in a state that has an effective siting program as provided under s. 287.12, Stats., and this chapter.

Note: 1997 Wis. Act 27 repealed s. 287.12.

(3) **ADJACENT STATES.** The department shall determine the effective siting program status for all adjacent states at the beginning of each calendar year.

(4) **NON-ADJACENT STATES.** An out-of-state unit may request in writing that the department determine the effective siting program status for a non-adjacent state. Within 180 days after receipt of a request, the department shall issue in writing a determination of the effective siting program status for the non-adjacent state.

Note: Owners or operators of landfills and incinerators accepting out-of-state waste are subject to the capacity fee provisions of s. NR 520.14 (4) and (5).

TABLE 1
Standards for Collection of Recyclables
- Pounds Per Person Per Year -

	Rural Municipalities	Other Municipalities
Newspaper	36	47
Corrugated Paper	6	7
Magazines	7	9
Aluminum Containers	1.4	1.8
Steel & Bi-Metal Containers	7	9
Plastic Containers	4	5
Glass Containers	22	29
Foam PS Packaging	0.3	0.4
TOTAL	83.7	108.2

Note: 1) Rural municipalities are those with a permanent population density of 70 persons per square mile or fewer. For purposes of ch. NR 544, municipalities that do not meet that population criterion fall into the other category. 2) The department intends to periodically revise these collection standards as conditions warrant.

History: Cr. Register, September, 1993, No. 453, eff. 10-1-93.

NR 544.20 Pilot program for alternative method of compliance. (1) PURPOSE. (a) The purpose of ss. NR 544.20 through 544.27 is to establish the criteria for a pilot program under s. 287.11 (4), Stats., for an alternative method of complying with s. 287.11 (2) (b), Stats., which requires separation of specified recyclable materials from post-consumer waste. The flexibility allowed by the pilot program in defining materials to be recycled shall apply only to materials listed in s. 287.07 (3) and (4), Stats. Separation of materials listed in s. 287.07 (1m) and (2), Stats., are not affected by the provisions of the pilot program.

(b) The goal of the responsible unit's pilot program each year shall be that its annual recycling rate meets or exceeds its baseline recycling rate.

(c) A responsible unit participating in the pilot program shall be considered to comply with s. 287.11 (2) (b), Stats., as provided in s. 287.11 (4) (c), Stats.

(d) The pilot program ends on December 31, 2005, as provided in s. 287.11 (4) (e), Stats.

Note: The department intends to work with stakeholders to determine whether authorization to continue the pilot program past December 31, 2005 should be requested in the FY 03-05 budget.

(2) **APPLICABILITY.** The provisions of ss. NR 544.20 to 544.27 apply to a responsible unit selected pursuant to s. NR 544.24 (3) and (4).

History: CR 02-062: cr. Register January 2003 No. 565, eff. 2-1-03.

NR 544.21 Pilot program definitions. In ss. NR 544.20 to 544.27:

(1) "Annual recycling rate" means the percent of materials collected for recycling pursuant to the requirements of s. 287.11 (2) (b), Stats., and defined by the following formula:

$$\text{Annual recycling rate in percentage} = \frac{a}{a + b} \times 100$$

where:

a = tonnage of materials collected for recycling; and

b = tonnage of solid waste collected in the pilot program participant's geographic area.

(2) "Applicant" means a responsible unit that applies for pilot program eligibility pursuant to ss. NR 544.22 to 544.27.

(3) "Baseline recycling rate" means the percent of materials collected for recycling in a base period before implementation of the pilot program and defined by the following formula:

$$\text{Baseline recycling rate in percentage} = \frac{a}{a + b} \times 100$$

where:

a = average annual tonnage of recyclable materials collected over the 3 years preceding participation in the pilot program; and

b = average annual tonnage of solid waste collected in the pilot program participant's geographic area over the 3 years preceding participation in the pilot program.

(4) "Pilot program" means an effective recycling program that the department selects pursuant to s. 287.11 (4), Stats., and ss. NR 544.20 to 544.27.

History: CR 02-062: cr. Register January 2003 No. 565, eff. 2-1-03.

NR 544.22 Pilot program eligibility of applicant.

(1) **ELIGIBLE APPLICANTS.** Any responsible unit which maintains an effective recycling program as required under s. NR 544.04 may apply to participate in the pilot program.

(2) **INELIGIBLE APPLICANTS.** A responsible unit which has not maintained an effective recycling program as required under s. NR 544.04 is not eligible to participate in the pilot program. Eligibility of a responsible unit on probation under s. NR 544.11 (2) (b) in the past year will be determined on a case-by-case basis.

History: CR 02-062: cr. Register January 2003 No. 565, eff. 2-1-03.

NR 544.23 Pilot program application. (1) APPLICATION.

An applicant shall submit a one-time application to participate in the pilot program to the department on a form provided by the department, postmarked no later than March 1, 2003. If there are an insufficient number of qualified applicants to fulfill requirements in s. 287.11 (4) (b), Stats., the department shall extend the application deadline for 90 days.

Note: This form may be obtained from the Department of Natural Resources, Bureau of Waste Management at 101 S. Webster St., P.O. Box 7921, Madison, WI 53707.

(2) **CONTENTS OF APPLICATION.** An applicant shall provide the following information in its application to participate in the pilot program:

(a) Identification of materials selected for recycling or reuse from the materials listed in Table 2.

1. The applicant shall select materials from at least 4 of the 7 categories listed in Table 2.

2. The applicant shall select at least 9 materials from the list of materials listed in Table 2.

(b) A description of the market plan for materials the responsible unit proposes to recycle under the pilot program that it does not currently require to be recycled.

(c) The baseline recycling rate.

(d) Identification of parties that may be affected through participation in the pilot program and documentation of agreement of cooperation from these parties. Specifically, the applicant shall provide:

1. The identities of the providers of services for collection, sorting, processing, marketing services and educational services.

2. The identity and location of the solid waste disposal facilities, the solid waste treatment facilities or the material recovery facilities where solid waste will be processed or disposed.

(e) A description of how parties identified in par. (d) will prevent the recycling of materials subject to pilot program exemptions from being disposed in solid waste generated in other responsible units serviced by these parties.

(f) If the pilot program requires changes to the local recycling ordinance, a demonstration of how that responsible unit will make any necessary changes to its ordinance after selection as a pilot program and the anticipated schedule of any changes.

TABLE 2

Materials Which Can Be Collected for Recycling for the Pilot Program

Category	Material
Paper	Corrugated paper ¹ Newspaper ¹ Magazines ¹ Office paper ¹ Residential mixed paper
Organics	Food waste Wood pallets
Metal	Aluminum containers ¹ Steel and bi-metal containers ¹ Scrap metals
Glass	Glass containers ¹
Plastic	Plastic containers (# 1 and 2 resins) ¹ Plastic containers (# 3-7 resins) ² Plastic film (LDPE) Polystyrene ²
Special Wastes	Nickel-cadmium batteries ³ Mercury thermostats ³ Dental amalgam ⁴ Televisions ⁵ Computers ⁵ Other electronic appliances ⁵ Fluorescent/HID lamps ⁵ Mercury thermometers ⁵ Antifreeze (automobile and other liquids) ⁶
Other	Waste tires ¹ Latex paint Carpet Textiles Clean C&D waste

¹ Material is subject to 1995 landfill and incineration bans, as specified in s. 287.07 (3) and (4), Stats.

² Material is subject to 1995 landfill and incineration bans but the requirement to recycle was waived by the department on October 4, 1996 until it has been determined that their collection and processing is practical.

³ Management of these materials when recycled is addressed under the Wisconsin universal waste standards, ch. NR 690.

4 When recycled, these materials are conditionally exempt from hazardous waste regulations under s. NR 605.05 (2) (a) or (f).

5 Management of these materials or components of these materials when recycled is addressed through administrative discretion in a memorandum dated January 11, 2000, "Management of Wisconsin-Specific Universal Wastes". Additional guidance for the management of used computers by business is provided in DNR publication PUB WA-420 00.

6 Guidance for management of antifreeze that is recycled is provided in DNR Publication PUBL_WA_356_98.

(3) AUTHORIZING RESOLUTION. A responsible unit shall submit to the department an authorizing resolution by the governing body designating a representative to submit this application and handle all pilot program actions. Resolutions on file with the department for other recycling grant programs in prior years do not satisfy this requirement. The department may not review an application submitted without an authorizing resolution.

History: CR 02-062: cr. Register January 2003 No. 565, eff. 2-1-03.

NR 544.24 Pilot program approval process. (1) PARTICIPANT SELECTION. The department shall evaluate all eligible applications for the pilot program. The department shall select participants for the pilot program based upon the factors listed in subs. (2) and (3).

(2) NUMBER TO BE SELECTED. The department shall select 3 responsible units with a population of less than 5,000, 3 responsible units with a population of at least 5,000 but less than 25,000, and 3 responsible units with a population of at least 25,000 to participate in the pilot program, as specified by s. 287.11 (4) (b), Stats.

(3) PILOT PROGRAM SELECTION CRITERIA. The department shall select proposals that best meet program selection criteria as follows:

(a) Ability to measure or report the amount of each material collected for reuse or recycling pursuant to the requirements in s. 287.11 (2) (b), Stats.

(b) Ability to market recycled materials as described in the market plan for materials not currently required to be recycled.

(c) Ability to measure or report the amount of solid waste collected in the responsible unit's geographic area for disposal in a solid waste disposal or a solid waste treatment facility.

(4) PILOT PROGRAM NOTIFICATION PROCEDURES. The department shall notify applicants selected as pilot program participants in writing, and provide a pilot program agreement under which the applicant can officially become a qualified pilot program participant. The agreement shall require that changes in local ordinances identified under s. NR 544.23 (2) (f) and any other requirements set out in ss. NR 544.20 to 544.27 be implemented. The applicant

shall respond to the notification within 45 calendar days of receipt of the notification. To qualify as an approved pilot program participant, selected applicants shall return the signed pilot program agreement within 45 days and implement the pilot program according to the terms of the pilot program agreement.

History: CR 02-062: cr. Register January 2003 No. 565, eff. 2-1-03.

NR 544.25 Pilot program annual reporting procedures. (1) REPORT REQUIREMENTS. A pilot program participant shall report annually, on forms provided by the department, the tonnage of materials collected for recycling or reuse pursuant to the requirements in s. 287.11 (2) (b), Stats., through the pilot program and the tonnage of solid waste collected in the geographic area of the responsible unit.

(2) CONTENTS OF REPORT. The annual report required under this section shall include all of the following:

(a) The tonnage of each material collected for recycling or reuse pursuant to the requirements of s. 287.11 (2) (b), Stats.

(b) The tonnage of solid waste collected in the responsible unit's geographic area.

(c) The annual recycling rate.

(d) A comparison of the annual recycling rate to the baseline rate. If the goal of meeting or exceeding the baseline rate has not been made, the responsible unit shall provide an explanation of efforts to improve upon the annual recycling rate and meet or exceed the baseline rate in the future.

History: CR 02-062: cr. Register January 2003 No. 565, eff. 2-1-03.

NR 544.26 Pilot program agreement amendments. A pilot program participant may request to substantially amend the objective or scope of its pilot program by submitting a request in writing to the department. The department shall notify the pilot program participant of its decision within 30 days upon receipt of the amendment request.

History: CR 02-062: cr. Register January 2003 No. 565, eff. 2-1-03.

NR 544.27 Pilot program termination. (1) A pilot program participant may request in writing to terminate its participation in the pilot program at any time. The department shall grant the request if the program can be operated as an effective recycling program under its original approval. In that case, the originally approved effective recycling program shall be reinstated by the responsible unit.

(2) The department may terminate the participation of a responsible unit in the pilot program if it determines that the pilot program participant does not meet the requirements of s. 287.11 (4), Stats.

History: CR 02-062: cr. Register January 2003 No. 565, eff. 2-1-03.