

Developing a Compliance Assurance Plan (CAP) For An Effective Recycling Program Under s. NR 544.04 (9g), Wis. Adm. Code



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Description: This document provides guidance to responsible units (RU) for development of a Compliance Assurance Plan (CAP). Each RU is required to develop a CAP in partial fulfillment of the basic criteria for an effective recycling program (s. NR 544.04 (9g), Wis. Adm. Code).

What is a Compliance Assurance Plan? A CAP describes the procedures a RU will follow in order to assure local recycling regulations/ordinances are being complied with. In most cases, a RU's CAP will only be a matter of formalizing the steps currently taken by staff to address ordinance violations related to recycling. A response plan to gain compliance should provide for stepped measures/penalties. With each incident of non-compliance the response increases to the next level. For serious and /or repeat offenses, sometimes it is necessary for RUs to issue citations. RUs have this authority within the local recycling ordinances.

Why are Compliance Assurance Plans Important?

- ⌚ CAPs allow a RU to be proactive rather than reactive with recycling program compliance. This may allow for a more thorough response to compliance issues that arise because the plan for correcting the problem is already developed.
- ⌚ CAPs will help RUs address common and not so common compliance scenarios which will in turn save time and lower the RUs cost associated with the recycling program.
- ⌚ CAPs will help to increase recycling rates and the quality of recyclable product.
- ⌚ The creation of a CAP will help to promote RU "ownership" of the local recycling program.

Minimum Requirements of a Compliance Assurance Plan

By August 1, 2006, each RU shall have a CAP developed and ready to be implemented. At a minimum, the CAP shall contain the procedure to follow when addressing at least one specific compliance issue. RUs are encouraged to address more compliance strategies than the minimum.

Plan Review

The department will review plans as part of the RU recycling program evaluations and also may request a copy of the plan at any time. The objective of the review is to ensure that the RU has given sufficient thought as to how specific compliance issues will be addressed.

If the CAP is determined not to sufficiently describe the compliance assurance process, the RU will be notified of the need to revise the CAP, and the timeframe in which this should be accomplished. The department staff will assist the RU with ideas on what the plan should reasonably include.

If the RU has not developed a CAP, this will be noted as a deficiency in the program review and the RU will be given a timeframe in which to rectify the situation. First notification of not having a CAP will not be considered sufficient cause

to place a RU on probation; however, if the RU fails to develop a plan within the specified timeframe, the department may determine that it is necessary to begin its stepped enforcement process.

Plan Implementation

The information included in a RU's plan should be continually updated as new issues arise or improved compliance techniques are discovered.

If a RU requests assistance from the department in addressing a compliance issue which they have not successfully resolved, the department will first check to see if the compliance issue is included under their CAP. If it is, the department will confirm that the RU has attempted to resolve the issue according to its plan first before asking for department assistance. If the compliance issue is not part of the CAP, and the department is able to assist the RU, the RU may be requested to include the compliance issue and the resolution process in its plan for future reference.

Examples of Compliance Issues:

Compliance Issues - Residential

- Recyclable materials mixed with trash
- Trash mixed with recyclable materials
- Illegal dumping or set-out of waste

Compliance Issues – Hauler

- Hauler observed mixing separated recyclables with trash
- Illegal dumping of waste

Compliance Issues – Business

- Recyclable materials not separated from trash
- Illegal dumping of waste

Example Responses:

- Educational materials to resident or business
- Notification letter sent to resident or business
- Business is notified by letter with a copy of letter sent to local DNR office
- Resident or business receives citation for ordinance violation per penalty section of local ordinance
- Joint enforcement with DNR

The RU can refer to the sample CAP (attached) as a guide in developing their plan. The attached matrix can also help RUs find solutions for many different offenses.

Contact DNRRecycling@wisconsin.gov for further information.

***Disclaimer:** This document is intended solely as guidance and does not contain any mandatory requirements except where requirements found in statute or administrative rule are referenced. Any regulatory decisions made by the Department of Natural Resources in any matter addressed by this guidance will be made by applying the governing statutes and administrative rules to the relevant facts.*

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<SAMPLE>

COMPLIANCE ASSURANCE PLAN

Purpose: This policy will establish standard guidelines that will lead to compliance with (Name of Responsible Unit)'s recycling ordinance.

(Name or office) is responsible for enforcing (Name of Responsible Unit)'s recycling ordinance. (Name of Responsible Unit)'s staff and personnel shall follow the guidelines identified in this Compliance Assurance Plan in response to issues associated with recycling and solid waste. This plan is intended to meet the requirements of s. NR 544.04 (9g), Wis. Adm. Code as well as (Name of Responsible Unit)'s recycling ordinance.

EXAMPLE 1:

Problem: Property found to have no methods for recycling in place.

Compliance Strategy:

1st Response: Recycling coordinator shall send a letter to property owner reminding them of the requirement to comply with local recycling ordinances. Other educational materials will also be provided as needed.

2nd Response: Recycling coordinator shall send a letter to property owner giving them 30 days to comply with local recycling ordinances. Copy of letter shall be sent to citation officer.

After 30 days has passed recycling coordinator shall inspect property to determine if property is in compliance with ordinance. If found to be non-compliant, citation officer shall issue the property owner a citation per code.

EXAMPLE 2:

Problem: Unacceptable materials found mixed with recyclables.

Compliance Strategy: Recycling route driver shall notify resident by tagging the recycling bin (bag) and leave at curb.

Continued occurrences shall result in letter issued by the recycling coordinator. If compliance is not achieved citation officer shall issue a citation per code.

EXAMPLE 3:

Problem: Recyclable materials found in trash.

Compliance Strategy: Garbage route driver shall collect material and leave current recycling educational materials.

Continued occurrences shall result in letter issued by the Recycling coordinator. If compliance is not achieved citation officer shall issue a citation per code.

The following matrix can help RUs figure out reasonable solutions for following up with different recycling problems they might face. To use the matrix, place a check mark in the box or boxes that your RU has agreed to use for a compliance strategy. The matrix can be used to serve as the compliance assurance plan or you can develop the plan in greater detail as seen in the above examples.

Residential Recycling Program

Type of Problem	Possible Solutions						
	No collection (hauler tags bag or bin)	Drop-off site attendant rejects materials	Provide educational materials	Verbal warning	Designated official issues warning letter	Issue citation	Other
Trash found mixed with recyclables							
Recyclables found in trash							
Resident is not recycling							
Hauler mixes separated recyclables with trash							

Multi-Family Apartments & Business Recycling Program

Type of Problem	Possible Solutions						
	Provide owner or operator with educational materials	Perform site visit to offer suggestions for improvements	Require facility to obtain adequate receptacles	Verbal warning	Designated official issues warning letter	Issue citation	Other
No recycling receptacles available							
High level of contamination in dumpsters							
Not all required materials are being recycled							
Hauler mixes separated recyclables with trash							



WISCONSIN DEPARTMENT OF NATURAL RESOURCES NOTICE OF FINAL GUIDANCE & CERTIFICATION

Pursuant to ch. 227, Wis. Stats., the Wisconsin Department of Natural Resources has finalized and hereby certifies the following guidance document.

DOCUMENT ID

WA-19-0427-C

DOCUMENT TITLE

Developing a Compliance Assurance Plan (CAP) For An Effective Recycling Program Under s. NR 544.04 (9g), Wis. Adm. Code

PROGRAM/BUREAU

Waste and Materials Management

STATUTORY AUTHORITY OR LEGAL CITATION

Ch. 289, Wis. Stats., NR 544.04, Wis. Adm. Code

DATE SENT TO LEGISLATIVE REFERENCE BUREAU (FOR PUBLIC COMMENTS)

October 21, 2019

DATE FINALIZED

November 12, 2019

DNR CERTIFICATION

I have reviewed this guidance document or proposed guidance document and I certify that it complies with sections 227.10 and 227.11 of the Wisconsin Statutes. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is not explicitly required or explicitly permitted by a statute or a rule that has been lawfully promulgated. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is more restrictive than a standard, requirement, or threshold contained in the Wisconsin Statutes.

November 12, 2019

Signature

Date