

Chapter ATCP 34

CHEMICAL AND CONTAINER COLLECTION PROGRAM

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Note: Chapter Ag 164 was created by emergency rule effective August 14, 1990; Chapter Ag 164 was renumbered ch. ATCP 34 under s. 13.93 (2m) (b) 1., Stats., Register, April, 1993, No. 448.

ATCP 34.01 Purpose. This chapter establishes procedural requirements for the agricultural chemical and container collection grant program created under s. 93.55, Stats.

Note: Funds for the agricultural chemical and container collection grant program under s. 93.55, Stats., are appropriated under s. 20.115 (7) (v), Stats. Grants are subject to appropriation limits.

History: Cr. Register, August, 1992, No. 440, eff. 9-1-92.

ATCP 34.02 Definitions. In this chapter:

(1) "Agricultural producer" means a person who produces agricultural commodities on land that that person owns or controls.

(2) "ARM division administrator" means the administrator of the department's agricultural resource management division.

(3) "Chemicals" means pesticides or other chemicals that are used for agricultural purposes. "Chemicals" includes chemical containers and contaminated chemicals that cannot be accepted by recycling or other disposal programs.

(4) "County" means any of the following:

(a) A single county.

(b) An association of counties formed to sponsor a county project under this chapter.

(5) "County project" means a county-sponsored project under s. 93.55, Stats., to collect any of the following for disposal:

(a) Waste chemicals from agricultural producers.

(b) Waste agricultural pesticides and pesticide containers from very small quantity generators, subject to s. ATCP 34.07.

(6) "Department" means the Wisconsin department of agriculture, trade and consumer protection.

(7) "Hazardous waste" has the meaning given in s. NR 600.03 (98).

(8) "Hazardous waste contractor" means a person who is licensed and permitted under applicable federal and state laws to collect, pack, transport and dispose of hazardous wastes.

(9) "Permanent collection event" means a county project conducted for more than 7 days at a permanent hazardous waste collection facility regulated by the Wisconsin department of natural resources.

(10) "Pesticide" has the meaning given in s. 94.67 (25), Stats.

(11) "Resource conservation and recovery act" has the meaning specified in s. 291.01, Stats.

(12) "Temporary collection event" means a county project conducted for not more than 7 days at a temporary collection site.

(13) "Very small quantity generator" has the meaning given in s. NR 610.07.

Note: Under s. NR 610.07, a "very small quantity generator" essentially means a person who generates no more than 220 pounds of hazardous waste per month, and who has an accumulation of no more than 2,205 pounds of hazardous waste at any given time.

History: Cr. Register, August, 1992, No. 440, eff. 9-1-92; correction in (6) made under s. 13.93 (2m) (b) 7., Stats., Register, March, 1999, No. 519; r. and recr. Register, March, 2000, No. 531, eff. 4-1-00.

ATCP 34.03 Grants to counties. (1) GENERAL. (a) The department may award a grant to a county to fund a county project, including a temporary or permanent collection event. A grant may fund all or part of a county project.

(b) The department may not award a grant to any person or entity other than a county, unless a county has entered into an agreement with that person or entity to administer a county project on behalf of the county.

(2) **PERMITTED USES.** A grant under sub. (1) may reimburse a county's direct costs for a county project, including any of the following:

(a) Direct costs to hire a hazardous waste contractor to receive, pack, transport and dispose of waste chemicals.

(b) Direct costs for equipment rentals, supplies and services used to operate the collection site and handle collected chemicals.

(c) Direct costs for county staff to receive and pack waste chemicals at a permanent collection event.

(d) Direct costs for local educational and promotional activities related to the county project.

(3) **PROHIBITED USES.** A grant under sub. (1) may not fund the collection or disposal of any of the following:

(a) Oil that is not contaminated with chemicals.

(b) Batteries.

(c) Contaminated soil or debris.

(d) Fluorescent tubes.

(e) Triple-rinsed plastic pesticide containers.

(f) Materials that may be readily handled under other waste disposal or recycling programs.

(g) Chemicals collected from persons other than agricultural producers, except as provided in sub. (4).

(h) Chemicals for which there are no federally-approved or state-approved disposal methods. If a person presents any of these chemicals for collection, the county or its agent shall do all the following:

1. Repackage the chemical securely, and return it to the person who delivered it.

2. Record the name and address of the person who delivered the chemical.

3. Inform the person delivering the chemical that the county or the department will contact that person if and when an approved disposal method becomes available.

(4) **COLLECTING WASTE AGRICULTURAL PESTICIDES FROM NON-FARMERS.** A grant under sub. (1) may reimburse a percentage of a county's cost to collect and dispose of agricultural pesticides and containers received from very small quantity generators who are not agricultural producers if all the following apply:

(a) The department, in its announcement under s. ATCP 34.04 (2), specifies the percentage rate at which the department will reimburse those costs. The percentage rate may not exceed 50%. The ARM division administrator may approve a higher percentage rate for special disposal problems that warrant the higher rate.

(b) The county project complies with s. ATCP 34.07.

(5) COUNTY CONTRIBUTION. (a) A county shall fund a portion of each county project for which the department awards a grant under sub. (1). The department, in its announcement under s. ATCP 34.04 (2), shall specify a minimum required county contribution of at least \$3,000 per county project.

(b) If 2 or more counties form an association to sponsor a county project, the associated counties may prorate the county contribution under par. (a) among themselves.

(c) If a county project is a permanent collection event, the county contribution under par. (a) may include any of the following costs that are directly related to the collection and handling of waste chemicals:

1. The value of county staff services provided for the permanent collection event.

2. The rental value of county facilities or equipment provided for the permanent collection event.

Note: Participation in a county project does not relieve any person of the duty to comply with applicable laws, or indemnify the person for any liability to which the person is subject.

History: Cr. Register, August, 1992, No. 440, eff. 9-1-92; r. and recr. Register, March, 2000, No. 531, eff. 4-1-00.

ATCP 34.04 Grant applications. (1) APPLICATION REQUIRED. In order to obtain a grant under s. ATCP 34.03, a county shall submit a written grant application to the department. A grant application shall comply with sub. (3). Two or more counties may submit a joint application for funding to conduct a cooperative project.

(2) ANNOUNCEMENT SOLICITING GRANT APPLICATIONS. The department shall issue a written announcement soliciting grant applications from counties. An announcement shall specify the general terms and conditions for grant awards, including all the following:

(a) The total amount of grant funds available for distribution to grant applicants.

(b) The purposes for which grant funds may be used.

(c) The percentage rate, if any, at which the department will reimburse a county's cost to collect and dispose of waste agricultural pesticides received from very small quantity generators who are not agricultural producers.

Note: See s. ATCP 34.03 (4).

(d) The minimum conditions a county must meet, including the minimum county funding contribution required under s. ATCP 34.03 (5).

(e) Grant application deadlines and requirements.

(f) The deadline by which a county receiving a grant award must select a hazardous waste contractor under s. ATCP 34.08 (2).

(g) Other grant application terms and conditions which the department deems appropriate.

Note: Among the other grant terms and conditions specified under sub. (2), the department may specify grant terms and conditions that are reasonably designed to advance the department's statewide chemical waste collection goals, and facilitate statewide administration of the chemical waste collection program.

(3) APPLICATION CONTENTS. A grant application under sub. (1) shall describe all the following:

(a) The purpose and scope of the proposed county project, including the targeted area and agricultural population, the anticipated level of participation, and the types and amounts of waste chemicals that the county expects to collect. The department may assist county applicants, as necessary, in estimating participation and the potential types and amounts of waste chemicals to be collected.

(b) The proposed collection locations.

(c) The proposed dates and times of collection.

(d) The proposed collection facilities and procedures. The department may review and inspect collection facilities and procedures from the standpoint of safety, public access, environmen-

tal protection and inclement weather protection. The department may disapprove unsuitable facilities and procedures.

(e) Any relevant limitations which the county will impose on waste collections.

(f) A schedule of fees, if any, which the county proposes to charge to persons from whom it collects waste chemicals. A county may not charge an agricultural producer for the first 200 pounds of chemicals collected from that agricultural producer, but may charge fees for amounts over 200 pounds. The department shall approve all fees.

(g) The tasks the county and its contract agents will perform as part of the county project.

(h) The county's plans for the receipt, transportation and disposal of waste chemicals received in connection with the county project, subject to s. ATCP 34.08 (2).

(i) The county's plans for recycling or disposing of triple-rinsed pesticide containers and other collected materials that are not hazardous wastes.

(j) The public information program the county will undertake in connection with the county project. The public information program shall advertise the county project to the target population. The public information program shall provide the target population with information on the safe handling and disposal of chemicals, and the minimization of chemical wastes.

(k) The proposed budget for the county project, and the amount of funding requested from the department.

(L) The amount of funding or other resources the county will contribute to the project. County contributions shall comply with s. ATCP 34.03 (5). The county shall identify and distinguish county-funded project costs from grant-funded project costs.

(m) The names of the county lead agency and individual program coordinator for the project, and any other county agencies involved in implementing the project.

(n) Other information which the department requires in its announcement under sub. (2).

Note: A county and its contract agents are responsible for managing waste chemicals in compliance with all applicable laws, regulations and standards. This chapter does not expand or limit the application of state or federal hazardous waste laws administered by the Wisconsin department of natural resources. This chapter does not authorize or require a county to serve as an enforcement agency, nor does it require a county to indemnify persons that violate state or federal law.

History: Cr. Register, August, 1992, No. 440, eff. 9-1-92; r. and recr. (2) and (3), Register, March, 2000, No. 531, eff. 4-1-00.

ATCP 34.05 Evaluating grant applications. The department shall evaluate grant applications which counties submit under s. ATCP 34.04 according to the following criteria:

(1) The potential benefits of the county project, including benefits for public health, safety and the environment.

(2) The scope of the project, including the size of the area and population covered, the types of agriculture affected, the types and amounts of waste chemicals to be collected, and the likely extent of public participation.

(3) The cost of the project.

(4) County funding, staff and resource commitments to the project.

(5) The extent to which the county plan effectively coordinates the efforts of state and local government agencies and other interested parties.

(6) The scope and quality of the public information program related to the county project.

(7) The overall quality of the county's application.

(8) The level of preparation, expertise and commitment demonstrated by the application.

(9) Other criteria specified by the department in its announcement under sub. (2).

History: Cr. Register, August, 1992, No. 440, eff. 9-1-92; r. and recr. Register, March, 2000, No. 531, eff. 4-1-00.

ATCP 34.06 Grant award; contract. (1) GENERAL. If the department awards a grant to a county under s. ATCP 34.03, the department and the county shall enter into a written contract which specifies the terms and conditions of the grant. No grant award is final until the contract is signed by the department secretary and the county. The contract may incorporate, by reference, all or part of the county grant proposal.

(2) REQUIRED CONTENTS. A contract under sub. (1) shall include all the following:

(a) The amount of the grant award.

(b) The purposes for which the grant award may be used. The contract may identify these purposes by reference to this chapter, the department's announcement under s. ATCP 34.04 (2) or the county's grant application.

(c) The county's responsibilities under the contract. The contract may identify county responsibilities by reference to this chapter, the department's announcement under s. ATCP 34.04 (2) or the county's grant application.

(d) The nature and amount of the county contribution under s. ATCP 34.03 (5).

(e) A commitment by the county to assume responsibility as hazardous waste generator, under s. ATCP 34.08 (1), for hazardous wastes received in connection with the county project.

(f) A copy of the county's contract with the hazardous waste contractor who will receive, transport or dispose of chemicals collected during the county project. The contract shall include a schedule of the contractor's charges to receive, transport and dispose of relevant categories of chemicals.

(g) A commitment by the county to comply with applicable requirements under this chapter.

(h) Other contract terms specified by the department.

(3) GRANTS CONTINGENT UPON FUNDING. Every grant award and grant contract under this chapter is contingent upon the availability of funding. If available funding is not adequate to fund all of the grants awarded, the department may do any of the following:

(a) Cancel one or more grants in the reverse order in which they were awarded.

(b) Reduce grant amounts with the approval of the affected counties.

History: Cr. Register, August, 1992, No. 440, eff. 9-1-92; r. and recr. (2) and (3), Register, March, 2000, No. 531, eff. 4-1-00.

ATCP 34.07 Waste agricultural pesticides from non-farmers. A county project may collect waste agricultural pesticides and containers from very small quantity generators who are not agricultural producers, provided that all the following apply:

(1) Each of the very small quantity generators pre-registers with the county or its contract agent. Each registration shall include all the following:

(a) The registrant's name and address.

(b) The registrant's license status, if the registrant is required to be licensed under ch. ATCP 29.

(c) The registrant's certification that the registrant is a very small quantity generator under s. NR 610.07.

(d) A complete inventory of agricultural pesticides and containers which the registrant proposes to deliver to the county.

(2) The county or its contract agent gives each registrant under sub. (1) a receipt showing all the following:

(a) The amounts and kinds of waste agricultural pesticides and containers actually collected from the registrant.

(b) The amount paid by the registrant, if any.

(3) The county keeps a separate record of all the following, and includes that record in its final report under s. ATCP 34.09 (1):

(a) The name and address of each registrant under sub. (1).

(b) The amounts and types of waste agricultural pesticides and containers actually collected from each registrant.

(c) The total cost to collect and dispose of waste agricultural pesticides and containers collected from registrants.

(d) The total of all payments received from registrants, if any.

History: Cr. Register, March, 2000, No. 531, eff. 4-1-00.

ATCP 34.08 Hazardous waste. (1) COUNTY RESPONSIBLE AS WASTE GENERATOR. Pursuant to s. 93.55 (2m), Stats., a county receiving a grant under s. ATCP 34.03 shall assume responsibility as hazardous waste generator, under the federal resource conservation and recovery act, for hazardous wastes accepted by the county in connection with the county project. As a hazardous waste generator, the county shall comply with applicable requirements under s. 291.21, Stats., and the resource conservation and recovery act.

(2) HAZARDOUS WASTE CONTRACTOR; GENERAL. A county receiving a grant under s. ATCP 34.03 shall contract with a hazardous waste contractor to receive, pack, transport and dispose of hazardous wastes collected during the county project. The hazardous waste contractor shall attend training provided by the department, and shall comply with applicable requirements under this chapter. The county shall select the contractor by a date specified in the department's announcement under s. ATCP 34.04 (2) so the department can provide training to the selected contractor.

(3) HAZARDOUS WASTE CONTRACTOR FOR TEMPORARY COLLECTION EVENT. For a temporary collection event, a county shall contract under sub. (2) with the hazardous waste contractor who manages the state of Wisconsin's hazardous wastes under the cooperative state purchasing agreement.

(4) HAZARDOUS WASTE CONTRACTOR FOR PERMANENT COLLECTION EVENT. (a) For a permanent collection event, a county shall contract under sub. (2) with a hazardous waste contractor who is capable of all the following:

1. Assisting counties and very small quantity generators to identify and segregate hazardous and solid wastes.

2. Providing essential waste handling services including drum packing, testing for unknown chemicals, containing loose chemicals, and approving cylinders for disposal.

3. Collecting, packing, and subsequently transporting poison-solids, poison-liquids and poison-flammables to waste management sites licensed by federal and state governments.

4. Providing waste collection and disposal services for mercury-bearing and dioxin-bearing chemicals, acids, bases, and low-pressure gas cylinders and canisters, unless there are no federally-approved or state-approved disposal options available.

5. Providing services under s. ATCP 34.03 (3) (h) if there are no federally approved or state approved disposal options available.

6. Collecting and reporting information related to chemicals that are banned or otherwise targeted by this state or the United States.

7. Administering requirements under s. ATCP 34.07 if a county project collects waste agricultural pesticides or pesticide containers from very small quantity generators who are not agricultural producers.

8. Meeting other requirements specified in the department's announcement under s. ATCP 34.04 (2).

(b) The department may require a county to submit proof that the hazardous waste contractor selected by the county meets applicable requirements under par. (a). The department may disapprove a hazardous waste contractor selected by a county if the department finds that the contractor does not meet applicable requirements under this section.

Note: The contractor who manages the state of Wisconsin's hazardous wastes under the cooperative state purchasing agreement meets applicable requirements under sub. (4) (a).

History: Cr. Register, August, 1992, No. 440, eff. 9-1-92; correction in (1) made under s. 13.93 (2m) (b) 7., Stats., Register, September, 1998, No. 513, eff. 10-1-98; am. (1), r. and recr. (2), cr. (3) and (4), Register, March, 2000, No. 531, eff. 4-1-00.

ATCP 34.09 Reports and payments. (1) FINAL REPORT. A county shall provide the department with a final report on each county project within 90 days after the project is completed. The final report shall include all the following:

(a) The number of participants who delivered waste chemicals to the collection site.

(b) The types and amounts of waste chemicals received at the collection site.

(c) The total cost of the project, including invoices for the transportation and disposal of hazardous and solid wastes.

(d) An evaluation of the project, including an identification of problems and possible solutions.

(e) An evaluation of the public information program conducted in connection with the project.

(f) An estimate of the types and amounts of chemicals still to be collected, and suggestions for how those chemicals might be collected in the future.

(g) The information required under s. ATCP 34.07 (3) if the county project collects agricultural pesticides or containers from persons other than agricultural producers.

(2) PAYMENT. Except as provided in sub. (3), the department may not distribute any grant funds to a county under this chapter until the county completes the county project and submits its final report to the department under sub. (1). The department shall pay the full grant award, less any amounts withheld because of the county's breach of the contract under s. ATCP 34.06, within 60 days after the department accepts the county's final report under sub. (1).

(3) PERMANENT COLLECTION EVENTS; PARTIAL PAYMENTS. A grant contract for a permanent collection event may provide for one or more partial payments during the permanent collection event. The grant contract may require the county to file an interim report prior to each partial payment. Each interim report shall contain interim information of the type required in sub. (1) and any other information which the department requires in the grant contract.

History: Cr. Register, August, 1992, No. 440, eff. 9-1-92; corrections made under s. 13.93 (2m) (b) 7., Stats., Register, September, 1998, No. 513; r. and recr. Register, March, 2000, No. 531, eff. 4-1-00.