

**ORDER OF THE STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION
REPEALING AND RECREATING RULES**

The state of Wisconsin department of agriculture, trade and consumer protection adopts an order to repeal and recreate ch. ATCP 34, relating to the agricultural chemical and household hazardous waste collection (“clean sweep”) grant program.

**Analysis Prepared by the Department
of Agriculture, Trade and Consumer Protection**

Statutory Authority: ss. 93.07(1), Stats.
Statutes Interpreted: ss. 93.55 and 93.57, Stats.

This rule consolidates the agricultural “clean sweep” program under s. 93.55, Stats., and the urban “clean sweep” program under s. 93.57, Stats., and establishes standards and procedures for the consolidated program. DATCP provides grants to local governments for “clean sweep” programs to collect and safely dispose of waste agricultural and household chemicals.

Background

The Department of Agriculture, Trade and Consumer Protection (“DATCP”) currently administers an agricultural chemical and container collection program (agricultural “clean sweep” program). This program is designed to collect and safely dispose of waste pesticides and agricultural chemicals, including chemical containers. DATCP may provide grants to counties to operate agricultural “clean sweep” events (s. 93.55, Stats.). DATCP has adopted agricultural “clean sweep” rules under ch. ATCP 34, Wis. Adm. Code.

Until recently, the Department of Natural Resources (“DNR”) administered a similar but smaller urban “clean sweep” program for household hazardous waste. The biennial budget act (2003 Wis. Act 33) transferred the urban “clean sweep” program from DNR to DATCP, and consolidated funding for the urban and agricultural programs. DATCP may provide grants to counties *or municipalities* to establish urban “clean sweep” events (s. 93.57, Stats.).

DATCP must operate the urban “clean sweep” program under DNR rules until DATCP adopts its own rules for the program (see 2003 Wis. Act 33, *nonstatutory provisions*). DATCP has

general authority to adopt rules for programs that DATCP administers (see s. 93.07(1), Stats.) This rule consolidates the agricultural and urban “clean sweep” programs, and establishes standards and procedures for the consolidated program.

Rule Content

This rule repeals and recreates DATCP’s current “clean sweep” rules under ch. ATCP 34, Wis. Adm. Code. This rule does all of the following:

- It consolidates the urban and agricultural “clean sweep” programs, and creates standards and procedures for the consolidated program.
- It provides target levels of funding for agricultural and urban “clean sweep” grants that are consistent with pre-consolidation funding levels, but provides greater flexibility to move unused funds between programs to maximize overall “clean sweep” benefits.
- It streamlines and clarifies “clean sweep” grant procedures, including procedures for grant applications, grant awards and contracts.
- It facilitates cost-effective cooperation between counties and municipalities.
- It updates minimum standards for urban and agricultural “clean sweep” projects.

“Clean Sweep” Grants; General

Under s. 93.55, Stats., and this rule, DATCP may award an agricultural “clean sweep” grant to a county (or group of counties). The county may use the grant to collect waste agricultural chemicals from farmers and from certain businesses that qualify as “very small quantity generators” (these businesses must pay a share of their collection costs).

Under s. 93.57, Stats., and this rule, DATCP may award an urban “clean sweep” grant to a county *or municipality* (or to a group of counties or municipalities). A county may combine an urban “clean sweep” with an agricultural “clean sweep.”

Eligible Costs

A “clean sweep” grant may reimburse direct “clean sweep” project costs, including:

- Direct costs to hire a hazardous waste contractor to receive, pack, transport and dispose of chemical waste.
- Direct costs for equipment rentals, supplies and services to operate the collection site and handle collected chemical waste.
- Direct costs for county or municipal staff to receive and pack chemical waste at a “continuous collection event” that lasts 4 or more days.
- Direct costs for local educational and promotional activities related to the “clean sweep” project.

A grant recipient must fund a portion of the “clean sweep” project costs. DATCP, in its annual call for grant applications, must specify a local cost-share contribution that is at least 25% of project costs.

Grant Application Procedures

If funding is available, DATCP will issue an annual written announcement soliciting “clean sweep” grant applications from counties and municipalities. The notice will specify the following, among other things:

- The total funding available, including separate amounts available for agricultural and urban “clean sweep” grants. Subject to available appropriations, the department will offer at least \$400,000 for agricultural “clean sweeps” and \$200,000 for urban “clean sweeps” (consistent with pre-consolidation funding levels). Unused funds in either category may be used in the other category.
- The purposes for which grant funds may be used.
- Grant eligibility criteria, including the required local cost-share contribution.
- Grant evaluation criteria.
- Grant application deadlines and procedures.

Grant Applications

A grant application must include the following, among other things:

- The purpose and scope of the proposed “clean sweep” project.
- The proposed collection dates, times, locations, facilities and procedures.
- Whether the project will collect farm chemical waste or hazardous household waste, or both.
- The types and amounts of waste that the applicant expects to collect.
- The proposed hazardous waste contractor.
- The fees, if any, that the applicant proposes to charge to persons delivering waste materials for disposal (a grant recipient may not charge a farmer for the first 200 lbs. of farm chemical waste delivered to an agricultural “clean sweep” event).
- The public information program that will accompany the project.
- The project budget, and the nature and amount of the applicant’s proposed contribution.

Evaluating Grant Applications

DATCP must review each grant application to determine whether it meets minimum eligibility requirements. DATCP must then rank each year’s eligible grant applications. DATCP may consider the following criteria, among others:

- The types of chemical wastes to be collected.
- The extent of intergovernmental coordination, including coordination with other counties or municipalities.
- The convenience of the proposed collection services.
- The scope and quality of public information and promotional programs that will accompany the project.
- The applicant’s capacity to carry out the project.

- The safety and suitability of project facilities and procedures.
- The overall quality of the project, including likely cost-effectiveness and impact.

Grant Award and Contract

DATCP must announce grant awards within 60 business days after the grant application deadline, based on DATCP's ranking of grant applications. DATCP must enter into a contract with each grant recipient, specifying the terms and conditions of the grant.

A grant recipient must take responsibility, as the "hazardous waste generator" under state and federal law, for managing hazardous wastes that the grant recipient collects (there are limited exceptions). The grant recipient must contract with a qualified hazardous waste contractor to receive, pack, transport and dispose of the hazardous waste. The hazardous waste contractor must attend training sponsored by DATCP. For a "clean sweep" project that lasts less than 4 days, the grant recipient must contract with the hazardous waste contractor who manages the State of Wisconsin's hazardous wastes.

Grants are contingent on funding appropriations. If appropriations are not adequate to fund all of the grants awarded, DATCP may cancel grant contracts or reduce grant amounts. Funds allocated but not used for agricultural "clean sweeps" may be reallocated to urban "clean sweeps" and *vice versa*.

Reports and Payments

A grant recipient must provide DATCP with a final report within 60 days after completing a funded "clean sweep" project. DATCP will not make any grant payment until it receives the final report, except that DATCP may make interim payments for a continuous collection event that lasts 4 days or more (the grant recipient must file interim reports). DATCP will make final payment within 60 days after DATCP accepts the grant recipient's final report.

A grant recipient's final report must indicate the number of participants, types and amounts of waste collected, total cost of the project (including supporting documentation), an evaluation of the project and related public information program, and an estimate of types and amounts of wastes yet to be collected.

Contract Termination for Cause

DATCP may terminate a grant contract, or withhold contract payments, if the grant recipient violates DATCP rules or the grant contract, fails to perform the "clean sweep" project, obtains the grant contract by fraud, or engages in illegal or grossly negligent practices. The grant recipient may demand a hearing on DATCP's action.

SECTION 1. Chapter ATCP 34 is repealed and recreated to read:

Chapter ATCP 34

CLEAN SWEEP PROGRAM

ATCP 34.01 Purpose. This chapter establishes procedures for the agricultural chemical and container collection grant program under s. 93.55, Stats., and the household hazardous waste grant program under s. 93.57, Stats.

NOTE: Funds for the grant programs under ss. 93.55 and 93.57, Stats., are appropriated under s. 20.115 (7)(va), Stats. Grants are subject to appropriation limits.

ATCP 34.02 Definitions. In this chapter:

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

(2) “ARM division administrator” means the administrator of the department’s agricultural resource management division.

(3) “Chemical waste” means farm chemical waste or household hazardous waste.

(4) “Clean sweep grant” means a grant under s. 93.55 or 93.57, Stats.

(5) “Clean sweep project” means a project under s. 93.55 or 93.57, Stats., to collect any of the following for disposal:

(a) Farm chemical waste from a source identified under s. ATCP 34.04(4).

(b) Household hazardous waste.

(6) “Continuous collection event” means a clean sweep project that collects chemical waste on at least 4 days in a calendar year.

(7) “County” means a single county, a regional planning commission, or an association of 2 or more counties.

(8) “Department” means the Wisconsin department of agriculture, trade and consumer protection.

(9) “Farm chemical waste” means waste pesticides or other waste chemicals manufactured for agricultural use. “Farm chemical waste” includes farm chemical containers and contaminated farm chemicals that cannot be accepted by recycling or other disposal programs.

(10) “Grant recipient” means a county or municipality that receives a clean sweep grant, and includes an agent of that county or municipality.

(11) “Hazardous waste” has the meaning given in s. 291.01(7), Stats.

(12) “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 waste.

(13) “Household hazardous waste” means a household waste as defined in s. NR 600.03(107) that would be a hazardous waste under ch. NR 605, except that it is exempt under s. NR 605.05.

(14) “Municipality” means any city, town, village, county, county utility district, town sanitary district, public inland lake protection and rehabilitation district, or metropolitan sewage district. “Municipality” includes a regional planning commission or an association of 2 or more municipalities.

(15) “Pesticide” has the meaning given in s. 94.67(25), Stats.

(16) “Resource conservation and recovery act” has the meaning given in s. 291.01, Stats.

(17) “Temporary collection event” means a clean sweep project that collects chemical waste on fewer than 4 days in a calendar year.

(18) “Very small quantity generator” has the meaning given in s. NR 610.07.

ATCP 34.04 Grants to counties and municipalities. (1) GENERAL. (a) The

department may award a clean sweep grant to a county for a clean sweep project to collect any of the following:

1. Farm chemical waste from a source identified in sub. (4).
2. Household hazardous waste.

(b) The department may award a clean sweep grant to a municipality for a clean sweep project to collect household hazardous waste.

(c) A grant recipient under par. (a) or (b) may, with the department's approval, contract with another person or entity to administer the clean sweep project on behalf of the grant recipient.

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

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

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

(c) Direct costs for county or municipal staff to receive and pack chemical waste at a continuous collection event.

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

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

- (a) Oil, unless the oil is contaminated with chemical waste.

(b) Contaminated soil or debris, except for small quantities that the department specifically approves in advance on a case-by-case basis.

(c) Triple-rinsed plastic pesticide containers.

(d) Materials that are handled by other waste disposal or recycling programs.

(e) Batteries, non-mercury bulbs, florescent tubes, tires, electronics, freon appliances or antifreeze.

(f) Farm chemical waste from sources other than those identified in sub. (4).

(g) Chemical waste for which there is no federally-approved or state-approved disposal method. If a grant recipient receives a chemical waste for which there is no approved disposal method, the grant recipient shall do all of the following:

1. Securely repackage the chemical waste and return it to the person who delivered it.

2. Record the person's name and address, and the type and amount of chemical waste returned to that person.

3. Inform the person that, if an approved disposal method becomes available, the department will attempt to notify the person at the address recorded under subd. 2.

4. Report to the department the information recorded under subd. 2.

(4) FARM CHEMICAL WASTE. A grant under sub. (1)(a) may reimburse a county's cost to collect and dispose of any of the following:

(a) Farm chemical waste received from an agricultural producer, or from a person who holds the farm chemical waste from farming operations conducted on property that the person now owns or controls.

(b) Waste pesticides and other department-approved farm chemical wastes that the county receives from a very small quantity generator who is not an agricultural producer, provided that all of the following apply:

1. The department, in its announcement under s. ATCP 34.06(2), specifies the percentage rate at which the department will reimburse that cost. The percentage rate may not exceed 50%, except that the ARM division administrator may approve a higher percentage rate for special individual disposal problems that warrant the higher rate. The ARM division administrator shall consider the chemicals involved, the environmental setting, the exposure risks, the responsibility or culpability of the parties, and disposal options available to the parties.

2. The clean sweep project complies with s. ATCP 34.14.

(5) COUNTY OR MUNICIPAL CONTRIBUTION. (a) A grant recipient under sub. (1) shall fund a portion of each clean sweep project for which the grant is awarded. The department's announcement under s. ATCP 34.06(2) shall specify a required minimum contribution that is at least 25% of the total project cost.

(b) For a continuous collection event, a grant recipient's contribution under par. (a) may include any of the following costs that are directly related to the collection and handling of chemical waste collected at that event:

1. The value of staff services provided for the event.
2. The rental value of facilities or equipment provided for the event.

NOTE: A grant recipient is responsible for managing chemical waste in compliance with applicable law. 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 grant recipient to serve as an enforcement agency, nor does it require a grant recipient to indemnify persons that violate state or federal law. Participation in a clean sweep project does not relieve any person of the duty to comply with applicable law, or indemnify that person for any liability to which that person is subject.

(6) COLLECTING WASTE FROM VERY SMALL QUANTITY GENERATORS. A grant recipient under sub. (1) may collect hazardous waste from a very small quantity generator, regardless of whether the collection cost is eligible for reimbursement under this chapter. Except as provided in sub. (4), the grant recipient may not include the collection costs in its grant-eligible expenses under sub. (2) or in its local contribution under sub. (5).

ATCP 34.06 Grant applications. (1) COUNTY OR MUNICIPALITY MAY APPLY. A county or municipality may apply for a clean sweep grant. A grant application shall comply with sub. (3).

(2) ANNOUNCEMENT SOLICITING GRANT APPLICATIONS. The department shall issue a written announcement soliciting grant applications under sub. (1) for the next calendar year if grant funding may be available for any part of that calendar year. The announcement shall specify the general terms and conditions for grant awards, including all of the following:

(a) The total amount available for clean sweep project grants, including separate amounts available for farm chemical waste collection projects and household hazardous waste collection projects. Subject to budget appropriations, the department shall offer no less than \$400,000 for farm chemical waste collection grants and no less than \$200,000 for household hazardous waste collection grants.

(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 farm chemical wastes received from very small quantity generators.

NOTE: See s. ATCP 34.04(4)(b).

(d) Minimum grant eligibility criteria, including the minimum county or municipal funding contribution required under s. ATCP 34.04(5).

(e) Grant application deadlines and procedures.

(f) Grant evaluation criteria, including the criteria in s. ATCP 34.08(2) and the weights that the department will give to those criteria.

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

NOTE: The department will normally issue a notice under sub. (2) in June of each year, soliciting grant applications for the next calendar year. Grant funding depends on state budget appropriations.

(3) APPLICATION CONTENTS. A county or municipality shall submit its grant application under sub. (1) on a form provided by the department. The application shall comply with requirements contained in the department's announcement under sub. (2) and shall describe all of the following:

(a) The purpose and scope of the proposed clean sweep project, including all of the following:

1. The targeted [waste collection](#) area.
2. Whether the project will collect farm chemical waste, household hazardous waste or both.
3. The agricultural or household populations served.
4. The types and amounts of chemical wastes that the applicant expects to collect.

NOTE: The department may assist applicants, as necessary, in estimating chemical waste types and amounts under subd. 4.

(b) The proposed collection sites.

(c) The proposed collection dates and times.

(d) The proposed collection facilities and procedures.

(e) Any relevant limitations that the applicant will impose on waste collections.

(f) A schedule of fees, if any, which the applicant 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 farm chemical waste collected from that agricultural producer, but may charge fees for amounts over 200 pounds.

(g) The hazardous waste contractor who will handle, transport and dispose of hazardous waste collected in the clean sweep project.

(h) The applicant's plans for handling, transporting and disposing of chemical waste collected in the clean sweep project, including the applicant's plans under s. ATCP 34.16.

(i) The applicant'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 that the applicant will undertake in connection with the clean sweep project. The public information program shall do all of the following:

1. Advertise the clean sweep project to the target population.
2. Provide information to help the target population minimize, safely handle and safely dispose of chemical waste.

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

(L) The applicant's proposed contribution to the project. The applicant's contribution shall comply with s. ATCP 34.04(5). The applicant shall identify and distinguish applicant-funded project costs from grant-funded project costs.

(m) The agency and individual that are primarily responsible for coordinating the project on behalf of the applicant, and any other agencies ~~will be~~ involved in implementing the project.

If the project will involve multiple units of government, the application shall describe the role of each actively participating government unit.

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

NOTE: Copies of the grant application form and related evaluation criteria are available from the department at the following address: Department of Agriculture, Trade and Consumer Protection, Agricultural Resource Management Division, PO Box 8911, Madison, WI 53708-8911.

ATCP 34.08 Evaluating grant applications. (1) DETERMINING ELIGIBILITY. The department shall review each grant application under s. ATCP 34.06(43) to determine whether it complies with minimum eligibility requirements under this chapter. The department shall conduct this review before the department ranks eligible grant applications under sub. (2). The department shall reject grant applications that fail to meet minimum eligibility requirements, or that fail to comply with application procedures prescribed under s. ATCP 34.06(2).

(2) RANKING ELIGIBLE APPLICATIONS. The department shall rank each year's eligible grant applications under s. ATCP 34.06(1). The department may consider the following criteria, and other criteria set forth in the department's notice under s. ATCP 34.06(2):

~~— (a) The potential benefits of the project, including benefits to public health, safety and the environment.~~

~~— (b) The likelihood that the project will safely and effectively collect chemical wastes for disposal.~~

~~— (c) The total cost and likely cost effectiveness of the project. The department may give priority to cost effective projects.~~

~~(d) The scope and likely impact of the project, including the size of the area and population covered, the amounts of chemical waste that may be collected, and the likely extent of public participation.~~

(af) The types of chemical wastes to be collected. The department may give priority to projects that do one or more of the following:

1. Collect both farm chemical waste and household hazardous waste.
2. Collect a wide variety of chemical wastes.
3. Collect waste pesticides from very small quantity generators.
4. Effectively target chemical wastes of special concern in the project area.

(gb) The extent to which the project coordinates the efforts of state and local governments and other interested parties. The department may give priority to projects that achieve cost efficiencies by combining the efforts of counties, municipalities, or counties and municipalities .

(ch) The convenience of the collection service. The department may give priority to projects offering conveniences, such as continuous collection events, multiple collection locations and multiple collection periods, which are reasonably designed to maximize public participation.

(id) The scope and quality of the public information and promotional program that will accompany the project. The department may give priority to projects that are effectively designed to do the following:

1. Reach and involve target audiences holding chemical wastes.
2. Minimize future generation of chemical waste.

(e) Innovation. The department may give priority to applicants that offer new collection sites or other sound innovations designed to increase public participation, waste collection or geographic outreach.

(f) The applicant's capacity to perform. The department may give priority to applicants that demonstrate effective preparation, expertise, capacity and commitment.

(g) Safety and suitability. The department may evaluate proposed collection sites, facilities and waste handling procedures from the standpoint of safety, public access, environmental protection and inclement weather protection. The department may reject unsuitable sites, facilities and procedures.

(h) The overall quality of the project, including likely impact, cost-effectiveness and [public participation](#).

ATCP 34.10 Grant awards. (1) DEADLINE. The department shall announce each year's clean sweep grant awards within 60 business days after the grant application deadline specified in the department's announcement under s. ATCP 34.06(2).

(2) FARM CHEMICAL WASTE COLLECTION PROJECTS. The department shall annually award clean sweep grants for farm chemical waste collection projects based on the ranking under s. ATCP 34.08(2). The department shall annually award grants totaling at least \$400,000 for farm chemical waste collection projects, subject to eligible grant application requests and available appropriations.

(3) HOUSEHOLD HAZARDOUS WASTE COLLECTION PROJECTS. The department shall annually award clean sweep grants for household hazardous waste collection projects based on the ranking under s. ATCP 34.08(2). The department shall annually award grants totaling at

least \$200,000 for household hazardous waste collection projects, subject to eligible grant application requests and available appropriations.

(4) REMAINING GRANT FUNDS. Following awards under subs. (2) and (3), the department may award grant funds for other projects based on their ranking under s. ATCP 34.08(2), without regard to whether the projects will collect farm chemical waste or household hazardous waste.

ATCP 34.12 Grant contracts. (1) GENERAL. The department shall enter into a written grant contract with each grant recipient ~~under this chapter~~, specifying the terms and conditions of the grant. No grant award under s. ATCP 34.10 is final until the grant contract is signed. The contract may incorporate, by reference, all or part of the grant application.

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

(a) The amount of the grant award.

(b) The purposes for which the grant award may be used. The contract may identify those purposes by reference to this chapter, the department's announcement under s. ATCP 34.06(2), or the grant application.

(c) The grant recipient's responsibilities under the contract. The contract may identify those responsibilities by reference to this chapter, the department's announcement under s. ATCP 34.06(2), or the grant application.

(d) The nature and amount of the grant recipient's contribution under s. ATCP 34.04(5).

(e) The grant recipient's responsibility as a hazardous waste generator, under s. ATCP 34.16(1), for hazardous waste collected by the clean sweep project.

(f) The grant recipient's contract with the hazardous waste contractor who will receive, transport or dispose of chemicals collected during the clean sweep project. The contract shall

include a schedule of the contractor's charges to receive, transport and dispose of relevant categories of chemicals.

(g) The grant recipient's agreement 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 funding is not available for all of the grants awarded, the department may do any of the following notwithstanding its contract with any grant recipient:

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

(b) Reduce grant amounts.

(4) REALLOCATION OF FUNDS. A county that receives grant funds for both a farm chemical waste collection project and a household hazardous waste collection project may reallocate up to 50% of either project's grant funding to the other project, based on unanticipated changes in demand for collection services in either project. A county may not reallocate funds from a project if the [reallocation](#) results in a shortage of funds for that project.

ATCP 34.14 Collecting waste pesticides from very small quantity generators. A county may collect waste pesticides and other department-approved farm chemical wastes from a very small quantity generator who is not an agricultural producer, provided that all of the following apply:

(1) The very small quantity generator pre-registers with the county or its hazardous waste contractor. The registration shall include all of 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 the pesticides and other department-approved farm chemical wastes that the registrant proposes to deliver for collection.

(2) The county gives each registrant under sub. (1) a receipt that shows all of the following:

(a) The amounts and kinds of pesticides and other department-approved farm chemical wastes actually collected from the registrant.

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

(3) The county keeps a record of all the following, and includes that record in its final report under s. ATCP 34.18(1):

(a) The name and address of the very small quantity generator.

(b) The types and amounts of pesticides and other department-approved farm chemical wastes actually collected from the very small quantity generator.

(c) The total cost to collect and dispose of the pesticides and other department-approved farm chemical wastes collected from the very small quantity generator.

(d) The total of all payments received from the very small quantity generator, if any.

ATCP 34.16 Hazardous waste. (1) COUNTY OR MUNICIPALITY RESPONSIBLE AS WASTE GENERATOR. (a) Except as provided in par. (b) or (c), a grant recipient shall take responsibility, as a hazardous waste generator under the resource conservation and recovery act, for hazardous waste that the grant recipient collects under a funded clean sweep project. As a hazardous waste

generator, the grant recipient shall comply with applicable requirements under s. 291.21, Stats., and the resource conservation and recovery act related to that hazardous waste.

(b) A grant recipient is not a hazardous waste generator under par. (a) with respect to wastes that are exempt from regulation as hazardous wastes under s. 291.21, Stats., and the resource conservation and recovery act, even if the grant recipient manages those wastes as hazardous wastes after collecting them.

(c) A grant recipient is not a hazardous waste generator under par. (a) with respect to hazardous waste collected from a very small quantity generator.

(2) HAZARDOUS WASTE CONTRACTOR; GENERAL. A grant recipient shall contract with a hazardous waste contractor to receive, pack, transport and dispose of hazardous wastes collected under the funded clean sweep project. The hazardous waste contractor shall attend training provided by the department, and shall comply with applicable requirements under this chapter. The grant recipient shall select a hazardous waste contractor that has attended the most recent training session provided by the department.

(3) HAZARDOUS WASTE CONTRACTOR FOR TEMPORARY COLLECTION EVENT. For a temporary collection event, a grant recipient 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 CONTINUOUS COLLECTION EVENT. (a) For a continuous collection event, a grant recipient shall contract under sub. (2) with a hazardous waste contractor that is qualified to do all of the following:

1. Help the grant recipient and very small quantity generators to identify and segregate hazardous and solid wastes.

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

3. Collect, pack and transport poison solids, poison liquids and flammable~~poisons~~ to waste management sites licensed by federal and state governments.

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

5. Provide services under s. ATCP 34.04(3)(g) if there are no federally-approved or state-approved disposal options.

6. Collect and report information related to chemicals that are banned or specially restricted by this state or the United States.

7. Comply with s. ATCP 34.14 if a clean sweep project collects pesticides from very small quantity generators who are not agricultural producers.

8. Comply with other requirements specified in the department's announcement under s. ATCP 34.06(2).

(b) The department may require a grant recipient to submit proof that the hazardous waste contractor selected by the grant recipient complies with par. (a), and may disapprove a contractor who does not comply with par. (a).

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).

ATCP 34.18 Reports and payments. (1) FINAL REPORT. A grant recipient shall provide the department with a final report on a clean sweep project within 60 days after the grant recipient completes the project. The final report shall include all of the following:

- (a) The number of persons who delivered chemical waste for collection.
- (b) The types and amounts of chemical wastes collected.
- (c) The total cost of the project. The report shall include supporting documentation, including invoices for the transportation and disposal of chemical waste.
- (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 future chemical waste collection needs. The report shall estimate future needs based, in part, on ~~of the types and amounts of chemicals still to be collected in the project area~~ collections at the completed clean sweep project. The report shall discuss the need for future clean sweep projects, if any, and the appropriate timing of those projects. It shall also include suggestions on how to collect chemical waste in the future.
- (g) The information required under s. ATCP 34.14(3) if the clean sweep project collects pesticides from very small quantity generators.

(2) PAYMENT. (a) Except as provided in par. (b), the department may not distribute any grant funds under this chapter until the applicant completes the clean sweep project and submits its final report to the department under sub. (1). The department shall pay the full grant award, less any amount withheld under s. ATCP 34.20(1), within 60 days after the department accepts the applicant's final report under sub. (1).

(b) A grant contract for a continuous collection event may provide for partial payments during the continuous collection event. The grant recipient shall file an interim report prior to

each partial payment. The interim report shall contain information required by the grant contract, including interim information of the type required in sub. (1).

ATCP 34.20 Contract termination for cause. (1) The department may terminate a clean sweep grant contract, and withhold some or all contract payments, if the department finds that the grant recipient or the grant recipient's agent has done any of the following:

- (a) Violated this chapter or the grant contract.
- (b) Failed to perform the clean sweep project.
- (c) Obtained the grant contract by fraud or illegal conduct.
- (d) Administered the project in a grossly negligent, illegal or corrupt manner.

(2) NOTICE OF TERMINATION. If the department terminates a grant contract or withholds contract payments under sub. (1), the department shall give the grant recipient written notice specifying the reasons for the department's action. The ARM division administrator or designee may issue a notice under this subsection.

(3) REQUEST FOR RECONSIDERATION. A grant recipient adversely affected by a department action under sub. (1) may ask the department to reconsider that action. The grant recipient shall make the request in writing, within 30 days after the grant recipient receives the department's notice under sub. (2). The request shall include all of the following:

- (a) The grant recipient's objections to the department's action, including disputed facts and conclusions.
- (b) The information that supports the grant recipient's objections.
- (c) The legal basis for the grant recipient's objections
- (d) The requested remedy.

(4) INFORMAL CONFERENCE. (a) If the department receives a written request for reconsideration that complies with sub. (2), the ARM division administrator shall schedule an informal conference with the grant recipient. The ARM division administrator or designee shall hold the informal conference within 10 business days after the department receives the request unless the grant recipient agrees to a later date.

(b) Following the informal conference under par. (a), the ARM division administrator or designee shall affirm, reverse or modify the department's action under sub. (1). The ARM division administrator or designee shall issue the decision in writing within 30 working days after informal conference, and shall give a copy to the grant recipient.

(5) CONTESTED CASE HEARING. A grant recipient may request a contested case hearing, pursuant to ch. 227, Stats., and ch. ATCP 1, on a decision under sub. (4)(b). A hearing request shall include the information required under sub. (2)(a) to (d).

EFFECTIVE DATE. The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, as provided under s. 227.22(2)(intro.), Stats.

Dated this _____ day of _____, _____

STATE OF WISCONSIN,
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By _____
Rodney J. Nilsestuen, Secretary