



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #144

Clean Sweep Funding (DATCP)

Bill Agency

[LFB 2007-09 Budget Summary: Page 52, #9]

CURRENT LAW

DATCP is provided with \$710,400 recycling fund SEG annually for the clean sweep program, which provides grants to counties and municipalities to fund the collection and disposal of agricultural and household hazardous materials.

GOVERNOR

Provide an additional \$289,600 SEG annually from the recycling fund for the clean sweep program, for total funding of \$1,000,000 SEG annually.

DISCUSSION POINTS

1. In 2003 Act 33, funding for DATCP's agricultural chemical pesticide collection ("clean sweep") program and DNR's household clean sweep grant program was consolidated under the recycling fund and DATCP was directed to administer the combined programs. The program provides grants to counties and municipalities for the collection of pesticides, farm chemicals, and household hazardous wastes from farmers, businesses, households, schools and government agencies. DATCP administers the combined clean sweep program under administrative rule ATCP 34, which was promulgated in response to Act 33 and first available to administer the program for calendar year 2005 grants.

2. Under the program, grant recipients sign a contract with DATCP and are awarded

their grants as reimbursements for eligible expenditures after the Department receives documentation of eligible expenses. Eligible grant expenditures include: (a) costs to hire a hazardous waste contractor; (b) costs for equipment rentals, supplies and services to operate the collection site and handle disposal; (c) county staff costs related to a permanent collection event; and (d) costs of local educational and promotional activities related to a project. Grants may not be used to collect oil that is not contaminated, batteries, contaminated soil or debris, fluorescent tubes, triple-rinsed plastic pesticide containers, materials that may be disposed of at other waste or recycling sites, and chemicals for which there is no federally-approved or state-approved disposal method.

3. For 2007 grants, counties and municipalities must offer a minimum match of 25% of the clean sweep project, where matching costs include cash or services. While there is no maximum grant award set in statute or administrative code, DATCP determines the maximum grant internally each grant cycle in an attempt to provide most eligible counties with some level of funding. The 2007 maximum grant is \$15,000 for a household waste temporary event (a clean sweep project that collects chemical waste on fewer than four days in a calendar year), \$20,000 for a household waste permanent facility, \$10,000 for an agricultural waste temporary event and \$13,000 for an agricultural waste permanent facility. In addition, based on its service area of Ashland, Bayfield, Burnett, Douglas, Iron, Price, Rusk, Sawyer, Taylor, and Washburn Counties and the tribal governments of the Bad River, Red Cliff, Lac du Flambeau, Lac Courte Oreilles, and St. Croix, DATCP has historically allowed a larger grant for the Northwest Regional Planning Commission. In 2005-06, this grant was \$31,400, and total clean sweep grants of \$731,400 were made for 28 events in calendar year 2005 (grants made in state fiscal year 2005-06 were for calendar year 2005 events).

4. This clean sweep funding initiative was requested by DATCP and recommended by the Governor with the main goal of providing additional grant funding to household hazardous waste events under the clean sweep program.

5. Since 2005, household clean sweep applications have outpaced agricultural clean sweep applications. For example, for calendar years 2005 through 2007, DATCP has received average requests of \$310,900 for agricultural grants and \$711,900 for household grants. Over the same 2005 to 2007 period, DATCP has awarded an average of \$222,300 in agricultural grants and \$493,300 in household grants. Table 1 provides an overview of the clean sweep grant requests received (eligible grant amount after the local match requirement is deducted) and awards made by DATCP for the 2005, 2006 and 2007 calendar year periods.

TABLE 1

Clean Sweep Applications and Awards

Calendar Year	Agricultural Events			Household Events		
	<u>Requested</u>	<u>Awarded</u>	<u>Award Rate</u>	<u>Requested</u>	<u>Awarded</u>	<u>Award Rate</u>
2005	\$206,800	\$206,800	100%	\$711,200	\$524,800	74%
2006	425,800	225,000	53	855,700	480,000	56
2007	300,200	235,000	78	568,700	475,000	84

6. Administrative rule ATCP 34 specifies that DATCP provide at least \$400,000 annually for agricultural chemical container collection grants and at least \$200,000 annually for household waste collection grants, subject to available funding. Clean sweep program officials indicate the current grant selection process tends to favor agricultural clean sweep events, although it does not ensure grants for all agricultural applicants over all household applicants, as shown in Table 1 (household grants made up over two-thirds of awards in each year). They state that applications are reviewed and ranked into separate categories of grant-worthiness, with the project's status as agricultural or household then taken into account within each separate category of ranking. These officials note that demand for household grants has exceeded available funding and a greater number of household clean sweep applicants have gone without state grant funding. However, as shown in Table 1, when examined as a percentage of funding requested, agricultural awards have been similar to household awards over the past three years. While the additional funding recommended by the Governor would likely benefit household collection projects, agricultural collection projects would also be expected to benefit. Given the DATCP rule that appears to favor agricultural clean sweeps, the Committee could consider specifying a household allocation. For example, two-thirds could be allotted to household clean sweeps (consistent with actual awards over the past three years), or 50% could be specified in order to ensure both components had equivalent access to funds.

7. Prior to the consolidation of the separate clean sweep programs in DATCP, the Department regularly used most (if not all) of the \$560,400 in expenditure authority it was provided for agricultural clean sweep grants. However, as shown in Table 1, demand for agricultural clean sweep grants has not exceeded \$426,000 over the last three years. DATCP officials indicate that this reduced level of funding requests for agricultural clean sweep grants is largely a sign of program success. They argue the program has been in operation over 15 years (with an annual appropriation of over \$500,000) and has succeeded in reducing the backlog of unwanted agricultural chemicals that were stored within the state. Instead, they indicate the ongoing need of the agricultural clean sweep program is to collect and dispose of unwanted chemicals as they surface annually (that is, to serve more as a maintenance program), as opposed to eliminating an existing backlog of agricultural waste and chemicals. Conversely, DATCP officials note that when

administered by DNR, the household clean sweep program had a smaller appropriation of \$150,000 annually. As a result, they argue that a backlog of unwanted household chemicals still exists within the state and increased funding is necessary in order to allow for the collection and disposal of these unwanted chemicals.

8. State recycling programs are funded from the segregated recycling fund. Revenues to the recycling fund are provided from the recycling business tax surcharge and solid waste tipping fee. Appropriations from the fund are used to administer statewide solid waste recycling and waste reduction regulations, financial assistance programs, and educational and technical assistance initiatives. The largest expenditure from the recycling fund, approximately two-thirds of all cumulative expenditures, is the DNR municipal and county recycling grant program, which provides financial assistance to responsible units of local governments for eligible recycling expenses.

9. The Committee could consider providing funding for the clean sweep program from a different source than that recommended by the Governor. Prior to 2003 Act 33, the agricultural clean sweep program was provided \$560,400 annually from the agrichemical management (ACM) fund with household clean sweeps provided \$150,000 annually from the recycling fund. The ACM fund collects revenue from a variety of fertilizer, pesticide and commercial feed fees and funds: (a) DATCP's administration of the agricultural cleanup grant program and inspection and regulation of the individuals and businesses that manufacture and distribute fee, fertilizer and pesticide products in Wisconsin; (b) DATCP administration of groundwater management programs; and (c) agriculture in the classroom program grants that help teachers educate students about agriculture.

10. Since the ACM collects revenue from fees and licenses associated with agricultural chemicals, it could be argued that the ACM is a more appropriate funding source for the collection and disposal of unwanted agricultural chemicals. Moreover, as the funding source of the administration of DATCP's agrichemical program, along with the historical (up until 2003 Act 33) funding source of DATCP's agricultural clean sweep program, the ACM fund could be considered as an alternative fund from which to support the clean sweep program. The Committee could consider funding the recommended increase (Alternative A2) from the ACM fund, especially given the similar level of grants provided for agricultural clean sweep events over the past three years (approximately \$220,000 annually). In addition, the Committee could consider funding clean sweep grants from the ACM at the level provided prior to 2003 (\$560,400 annually), and fund remaining clean sweep grants of \$439,600 from the recycling fund (Alternative A3). This alternative would provide the same level of overall funding as recommended by the Governor, but would result in an increase of \$1,120,800 in expenditure authority from the ACM fund over the biennium and a reduction of \$541,600 over the biennium from the recycling fund compared to the bill.

11. Table 2 provides an overview of the ACM fund condition under the bill. Were additional funding of \$289,600 annually instead provided from ACM, the fund would be projected to have a June 30, 2009, balance of \$1.9 million. Were ACM funding restored to its pre-2003 level, the fund would be projected to have a June 30, 2009, balance of approximately \$1.3 million.

TABLE 2**Projected ACM Fund Condition Under the Bill**

	Actual <u>2005-06</u>	Estimated <u>2006-07</u>	Estimated <u>2007-08</u>	Estimated <u>2008-09</u>
Opening Balance	\$2,692,200	\$4,219,900	\$2,298,900	\$2,402,600
Revenue	<u>6,919,000</u>	<u>6,250,000</u>	<u>6,300,000</u>	<u>6,300,000</u>
Total Available	\$9,611,200	\$10,469,900	\$8,598,900	\$8,702,600
Expenditures	-\$5,391,300	-\$6,546,000	-\$6,196,300	-\$6,261,400
Lapse to the General Fund	<u>0</u>	<u>-1,625,000</u>	<u>0</u>	<u>0</u>
Closing Cash Balance	\$4,219,900	\$2,298,900	\$2,402,600	\$2,441,200

12. The lapse to the general fund of \$1,625,000 in 2006-07 shown in Table 2 consists of two separate parts, both related to 2007 Act 5 (the 2005-07 budget adjustment act). The first part is a \$1.5 million lapse from the ACM fund to the state's general fund required by the act. The act also requires DOA to lapse or transfer \$11.1 million to the state's general fund. This is to be accomplished by either reducing state operations appropriations or transferring revenue from non-GPR state operations appropriations. DATCP indicates it expects to meet this requirement in part by lapsing \$125,000 from the ACM fund.

13. If the Committee does not wish to increase funding for the program, but wants to increase the number of projects that receive clean sweep grants, the Committee could consider requiring a specific cost-share percentage. A match of 50% of project costs is often required for state grants. Alternatively, the 25% match selected by DATCP for calendar year 2007 grants could be selected. Under the current program DATCP makes such decisions internally. It could be argued the current lack of statutory restrictions allows DATCP greater flexibility to adjust grant requirements from year to year based on anticipated grant demand. Further, any such restrictions could prevent all funds from being awarded should an insufficient number of projects be eligible for grants under any new restrictions (uncommitted year-end balances would lapse to the source fund, currently recycling).

Collection of Pharmaceuticals

14. There has been an increasing awareness of the presence of pharmaceutical residues in the water supply. In part due to a lack of collection alternatives, unused prescription drugs are typically disposed of through the trash (landfilling) or flushing (septic systems or wastewater treatment plants). However, current treatment processes generally do not remove the drugs and they are released in the effluent from treatment facilities (or, potentially, landfill leachate). In addition,

prescription drugs that are not metabolized by the body also enter the wastewater stream. Further, the increasing use of antibiotics, hormones, and other drugs for human, farm and pet use have raised concerns over the effects that increasing concentrations of these drugs, and various combinations of the compounds, may be having on human health and the environment. A US Geological Survey sample of 139 streams (generally near urban areas or livestock concentrations) in 30 states in 1999 and 2000 found pharmaceuticals, hormones, or other organic contaminants in 80% of the samples, with 50% of streams having seven or more of the 95 compounds tested for. The study noted the concentrations were generally low, but that the environmental or health effects of the mix of chemicals, even at low concentrations, is not known.

15. While it is not yet clear how large a proportion of the water supply contamination problem results from unused prescription drugs (versus, unmetabolized compounds by humans or animals), collection of unused pharmaceuticals is viewed as an important step toward addressing the issue. Although clean sweep grants are statutorily designated for the collection of and disposal of household hazardous wastes and agricultural chemicals, DATCP officials state they are not currently authorized to provide grants to collect unused prescription drugs. Thus, grants are not offered for the cost of collecting unwanted pharmaceuticals. However, DATCP officials indicate they allow collection sites to use the costs of collecting pharmaceuticals for the cost-share match required under the program.

16. The collection of unwanted pharmaceuticals is complicated by federal law, which classifies some pharmaceuticals as hazardous waste or controlled substances. Once a prescription drug classified as a controlled substance has been distributed, it may only be possessed by the person to whom it was distributed or a law enforcement official. Therefore, a controlled substance may be possessed by a patient for personal use, but may not be generally returned to a doctor or pharmacy. Holding a collection event that would only collect drugs that are not classified as a controlled substance would be expected to be very difficult due to the potential existence of unmarked or improperly marked drugs, and the requirement that a pharmacist (or other person with extensive pharmaceutical knowledge) be present to identify the drugs and whether or not they are classified as controlled substances. As a result, in order for pharmaceuticals to be collected under a clean sweep type program, law enforcement officials would likely need to be present to take possession of the prescription drugs from the people to whom they were originally prescribed. However, in order to avoid diverting existing law enforcement resources, some collection sites are currently examining other potential options, such as having the county sheriff deputize certain collection officials for the collection event, in order to comply with state and federal law.

17. While DATCP officials estimate around five drug collections occurred in Wisconsin in 2006, they indicate a number of additional localities are interested in collecting unwanted pharmaceuticals. As a result, the Committee could specify that the clean sweep program may fund the collection of unwanted pharmaceuticals (Alternative C1). However, the Department would also likely need to modify administrative rule ATCP 34, under which DATCP administers the clean sweep program, in order to allow the Department to make grants for the collection of pharmaceuticals. DATCP could be given the authority to promulgate an emergency rule to allow for prescription drug collection clean sweeps, without the finding of an emergency.

18. Further, some have expressed concerns that making pharmaceutical collection eligible for grants under the program could reduce funding that is available for agricultural and household waste collection. Therefore, the Committee could choose to provide additional funding of, for example, \$150,000 annually and specify that DATCP allocate at least that amount annually for pharmaceutical collection purposes (Alternative C2).

ALTERNATIVES TO BILL

A. Funding

1. Adopt the Governor's recommendation to provide an additional \$289,600 SEG annually from the recycling fund for the clean sweep program, for total funding of \$1,000,000 SEG annually.

ALT A1	Change to Bill Funding	Change to Base Funding
SEG	\$0	\$579,200

2. Provide an additional \$289,600 SEG annually from the agrichemical management fund for the clean sweep program, for total funding of \$1,000,000 SEG annually.

ALT A2	Change to Bill Funding	Change to Base Funding
SEG	\$0	\$579,200

3. Provide \$560,400 SEG annually from the agrichemical management fund, and delete \$270,800 SEG annually from the recycling fund for clean sweep program grants. [Total funding of \$1,000,000 SEG annually (\$560,400 from the ACM fund and \$439,600 from the recycling fund) would be provided for clean sweep grants.]

ALT A3	Change to Bill Funding	Change to Base Funding
SEG	\$0	\$579,200

4. Maintain current law.

ALT A4	Change to Bill Funding	Change to Base Funding
SEG	-\$579,200	\$0

B. Program Requirements

1. Specify that a clean sweep grant may not exceed the following amount:
 - a. 75% of project costs (the amount DATCP funded in 2007).
 - b. Two-thirds of project costs.
 - c. 50% of project costs.
2. Specify that household waste collection grants be allotted at the following amounts annually:
 - a. 50% of available funds.
 - b. Two-thirds of available funds (consistent with recent awards).

C. Pharmaceutical Collection

1. Specify that DATCP may make grants under the clean sweep program to fund the costs of collecting unused or unwanted pharmaceuticals.
2. Specify that DATCP must allocate at least \$150,000 annually under the clean sweep program for grants to fund the costs of collecting unused or unwanted prescription drugs, and provide \$150,000 SEG annually for these purposes from one of the following:
 - a. the agrichemical management fund; or

ALT C2a	Change to Bill	Change to Base
	Funding	Funding
SEG	\$300,000	\$300,000

- b. the recycling fund.

ALT C2b	Change to Bill	Change to Base
	Funding	Funding
SEG	\$300,000	\$300,000

3. In addition to C1 or C2, specify that DATCP may promulgate an emergency rule, without the finding of an emergency, to allow the Department to make clean sweep grants for the collection of prescription drugs.

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