



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #594

Clean Sweep Repeal (Agriculture, Trade and Consumer Protection)

[LFB 2009-11 Budget Summary: Page 89, #9]

CURRENT LAW

DATCP is provided \$1,000,000 recycling and renewable energy fund SEG annually for the clean sweep program. The program provides grants to municipalities for collection of agricultural chemicals and containers as well as household chemicals and hazardous wastes, including unwanted prescription drugs. DATCP allocates approximately \$160,000 agrichemical management (ACM) fund SEG annually with 1.4 positions for administration of the clean sweep program.

GOVERNOR

Delete \$1,000,000 SEG annually from the recycling and renewable energy fund, and delete \$102,900 SEG with 1.0 position annually from the ACM fund. Further, repeal statutory authorization for the clean sweep program. It is the administration's intent that funds deleted from the recycling and ACM funds would be transferred to the general fund.

DISCUSSION POINTS

1. The administration reports that the Governor recommended repealing the clean sweep program to lower state expenditures and address the fiscal pressures on the general fund. The administration intends to transfer annually to the general fund the \$1,000,000 recycling SEG and \$102,900 ACM SEG associated with clean sweep grants and program administration. For 2008-09, the administration has also required DATCP to lapse \$478,100 recycling SEG, which represents the remaining funding DATCP had for grants in calendar year 2009. Therefore, no clean sweep grants are planned in 2009 or thereafter.

2. The program for collection of agricultural chemicals and containers was first created in 1989 Act 335, with funding of \$100,000 GPR beginning in 1990-91. Funding was converted to the ACM fund beginning in 1991-92, with \$560,400 SEG provided in 1992-93 through 2002-03. Between 1986-87 and 2002-03, the Department of Natural Resources administered the grant program for collection of household hazardous wastes. Funding was \$50,000 GPR annually from 1985-86 to 1990-91, and then \$150,000 environmental fund SEG annually from 1991-92 to 2002-03. The programs were consolidated under DATCP in 2003 Act 33, and provided \$710,400 recycling fund SEG annually. 2007 Act 20 increased grant funding by \$289,600 to \$1,000,000 recycling fund SEG annually.

3. The statutes require that at least two-thirds of the funds available for grants in each year be allocated for household hazardous waste grants, including unwanted prescription drugs. This is \$666,700 SEG for the 2008-09 base funding level. DATCP has allocated \$100,000 of this amount for prescription drug clean sweeps. For 2008 events, DATCP awarded agricultural clean sweep grants of \$284,500. Grants for household hazardous waste collections, including unwanted prescription drugs, were \$716,100. Grant recipients in 2008 are listed in the attachment. (Grants are awarded on a calendar year basis. This means that annual awards may exceed \$1,000,000, although expenditures for a fiscal year do not exceed \$1,000,000. This is typically due to funds being awarded in the previous year, but recipients having fewer eligible costs than the amounts of the grants.)

4. Eligible costs for clean sweep grants include: (a) the direct costs of establishing a collection site; (b) the direct costs of transporting chemical containers either to a facility for refill and reuse or to a hazardous waste disposer; and (c) direct costs associated with proper handling of chemicals and containers, including hiring a contractor to recycle or dispose of wastes. DATCP administrative rules also allow grants to fund promotional and educational activities related to the clean sweep event. Rules also specify the following items may not be collected by a clean sweep event: (a) motor oil, unless it is contaminated with chemical waste; (b) contaminated soil or debris, with certain exceptions; (c) triple-rinsed plastic pesticide containers; (d) materials specifically handled by other waste disposal programs; (e) batteries, non-mercury light bulbs, fluorescent light tubes, tires, electronics, Freon appliances or antifreeze; (f) farm chemical wastes from non-approved sources; and (g) wastes for which there are no federally or state-approved disposal methods.

5. DATCP awards grants in the fall to accommodate counties, which budget on a calendar-year basis. Collections may take place at any time of year or be continuous collections. DATCP reimburses single-event grantees for eligible costs following a final report for the event, which allows DATCP to verify eligible expenses. Continuous events may receive partial payments over a grant year, provided that the grantee submits interim reports to the Department prior to disbursement. DATCP officials indicate that the reporting process allows the Department to determine projects that did not use their full grant award, which allows DATCP to reallocate unspent funds to events that incurred higher-than-anticipated costs.

6. The statutes require at least a 25% cost-share by a participating county or municipality, although DATCP has customarily capped awards to any one grant recipient at a specific dollar amount. Prior to the program's cessation in 2009, DATCP had set the following maximum grants: (a) \$16,000 for a household waste temporary event, which is a project that

collects chemical waste on fewer than four days in a calendar year; (b) \$22,000 for a household waste permanent facility; (c) \$9,000 for an agricultural waste temporary event; and (d) \$12,000 for an agricultural waste permanent facility. Grants for prescription drug collections for 2009 were set at \$5,000 for individual agencies and at \$12,000 for multi-governmental applications.

7. The statutes generally give counties and other municipalities the ability to charge fees that bear a reasonable relationship to any special service provided. DATCP indicates that some clean sweep grant recipients have imposed fees on wastes collected, for example, by charging each car that drops off wastes at a site. However, local collectors have reported that revenues have generally not been significant. These collections efforts do not include charges for very small quantity generators (VSQGs), which are commercial firms that produce 100 kilograms of hazardous waste or fewer in any given month and accumulate 1,000 kilograms or fewer. Up to 50% of the costs of accepting, transporting and disposing of agricultural pesticides from VSQGs may be reimbursed, but other collections costs related to VSQGs are mostly ineligible for reimbursement. As such, most clean sweep events charge VSQGs for collection. DATCP requires applicants to disclose a proposed fee schedule, if any, for collection of wastes, but rules also prohibit a participant from charging fees against the first 200 pounds of farm chemical waste collected from an agricultural producer, which is defined as anyone that produces an agricultural commodity on land he or she owns.

8. In recent years, requests for clean sweep projects have usually been greater than available funds. Grant requests for household hazardous waste collections have been in the highest demand. Table 1 shows requests for funding and amounts awarded by calendar year since 2005.

TABLE 1

Clean Sweep Applications and Awards

<u>Year</u>	<u>Agricultural Events</u>			<u>Household Events</u>			<u>Prescription Drug Events</u>		
	<u>Requested</u>	<u>Awarded</u>	<u>Award Rate</u>	<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			
2008	314,200	284,500	91	706,300	620,500	88	\$163,000	95,600	59%
2009	334,100	---	---	694,700	---	---	166,600	---	---

9. DATCP reports that since 2004, when the agricultural and household hazardous waste programs combined, clean sweep events statewide have collected an average of nearly two million pounds of waste annually. Collection tonnages vary with the grant recipients each year and with the amount of time that collection events are open to the public. DATCP also had the ability to fund additional grants in 2008 following the increase in program funding under 2007 Act 20. Table 2 shows the pounds collected since 2004 by clean sweep grant recipients.

TABLE 2

Clean Sweep Pounds Collected

<u>Year</u>	<u>Agricultural Pounds</u>	<u>Household Hazardous Waste Pounds</u>	<u>Pharmaceutical Pounds</u>	<u>Total</u>
2004	289,231	656,724	---	945,955
2005	151,733	2,447,929	---	2,599,662
2006	119,378	1,074,279	---	1,193,657
2007	136,970	2,205,144	---	2,342,114
2008	157,524	2,467,931	7,371	2,632,826

10. DATCP officials report that counties and municipalities that have received clean sweep grants in the past have a variety of plans for future collection events. Although DATCP has not formally surveyed these recipients to determine each entity's expected course of action, some intend to continue collections in the event the grant program is eliminated.

11. The Committee could consider restoring the statutory authorization for the program, including the appropriation from which grants are made, but deleting expenditure authority and positions as recommended by the Governor (Alternative 2). This would continue the program's authorization in the statutes, and the administration and Legislature could consider funding for the program in the 2011-13 biennium.

Program Funding

12. If the Committee wished to restore funding for the program, it could consider a number of segregated funds, including: (a) the recycling and renewable energy fund; (b) the agrichemical management (ACM) fund; or (c) the agrichemical cleanup program (ACCP) fund. The Committee could specify one or more funds to be a source for clean sweep grants (Alternative 4), and also specify the dollar amounts to be authorized from each fund (Alternative 3).

13. The recycling and renewable energy fund is funded by the recycling business tax surcharge and solid waste tipping fee. Appropriations from the fund primarily support state recycling and renewable energy grants. The largest program is the DNR municipal and county recycling grant program, which provides financial assistance for eligible recycling costs to local units of government responsible for implementing local recycling programs. The recycling fund has supported the clean sweep grant program since 2003-04.

14. The ACM fund supports DATCP administration of the agricultural chemical cleanup program, inspections and regulation of businesses that manufacture, store or sell feed, fertilizer and pesticide products, DATCP groundwater quality programs and other grants. The ACM fund has the following revenue sources: (a) \$30 annual license fees for fertilizer manufacturers and distributors; (b) fertilizer fees of 30¢ per ton; (c) non-agricultural fertilizer permits of \$25; (d) \$25 annual licenses for soil and plant additive manufacturers and distributors; (e) \$100 one-time soil and plant additive permits for new products; (f) soil and plant additive fees of 25¢ per ton; (g) annual lime license fees of \$10; (h) \$25 annual licenses for commercial feed manufacturers and distributors; (i) commercial feed tonnage fees of 23¢ per ton; (j) restricted-use pesticide dealer

licenses of \$60; (k) pesticide applicator licenses of \$40 for individuals and \$70 for businesses; (l) nonresident commercial applicator reciprocal certificate fees of \$75; (m) \$25 biennial veterinary clinic permits; and (n) household, non-household and industrial pesticide registration fees ranging from \$141 to over \$3,000, depending on the quantity sold. These fee levels are set in the statutes. The ACM fund has supported clean sweep administration since the 1990s, and agricultural clean sweep grants until 2003.

15. The ACCP fund supports reimbursements of spills or discharges of fertilizers and non-household pesticides at commercial fertilizer blending facilities, commercial pesticide application businesses and farm sites. The fund is supported by the following revenues: (a) a fertilizer tonnage surcharge of 44¢ per ton; (b) a registration surcharge of \$3.50 per product for non-household pesticides with Wisconsin sales of less than \$25,000, \$120 per product for non-household pesticides with Wisconsin sales from \$25,000 to \$74,999, or 0.75% of sales per product for non-household pesticides with Wisconsin sales greater than \$75,000; (c) a \$14 annual license surcharge for fertilizer manufacturers and distributors; (d) a \$28 annual surcharge for dealers of pesticides whose use is restricted by the Federal Insecticide, Fungicide, and Rodenticide Act; (e) a \$38 annual surcharge for commercial application businesses; and (f) a \$14 annual surcharge for individual commercial applicators. The ACCP fund has not been used in the past for clean sweep.

16. The bill would transfer \$500,000 in 2009-10 and \$1,000,000 in 2010-11 from the ACM fund, and \$500,000 each year from the ACCP fund to the general fund. The administration reports the intent of these transfers is to offset payments under the dairy cooperative manufacturing facility investment tax credit and the meat processing facility investment tax credit, both of which were enacted in 2009 Act 2. It should also be noted that segregated funds could be considered as alternatives to offset fee increases recommended by the Governor (for example, the proposed animal slaughter fee) or offset additional GPR expenditures proposed under the bill (for example, Buy Local, Buy Wisconsin grants). If the Committee wished to restore some or all of the base funding for clean sweep grants and staff, it would limit the funds' ability to support other expenditures.

17. Table 3 shows the estimated condition of the ACM fund, and Table 4 shows the estimated condition of the ACCP fund under the bill. Although appropriated up to \$2.97 million annually, the ACCP fund condition reflects \$2,225,000 in annual expenditures for cleanup reimbursements and pollution prevention grants during the 2009-11 biennium. Reimbursements have averaged about \$2.1 million over the last three years, and are expected to be less than \$1.7 million in 2008-09. The tables also reflect the amounts the administration has identified for transfer to the general fund from 2008-09 through 2010-11. The estimated condition of the recycling and renewable energy fund is shown in a separate paper.

TABLE 3**ACM Fund Condition**

	Actual <u>2007-08</u>	Estimated <u>2008-09</u>	AB 75 <u>2009-10</u>	AB 75 <u>2010-11</u>
Opening Balance	\$2,936,200	\$3,583,100	\$2,952,000	\$2,433,400
Revenue	<u>6,814,200</u>	<u>6,800,000</u>	<u>6,600,000</u>	<u>6,675,000</u>
Total Available	\$9,750,400	\$10,383,100	\$9,552,000	\$9,108,400
Expenditures	\$6,085,300	\$6,791,100	\$6,355,000	\$6,358,600
Transfers	82,000	640,000	763,600	1,263,600
Closing Balance	\$3,583,100	\$2,952,000	\$2,433,400	\$1,486,200

TABLE 4**ACCP Fund Condition**

	Actual <u>2007-08</u>	Estimated <u>2008-09</u>	AB 75 <u>2009-10</u>	AB 75 <u>2010-11</u>
Opening Balance	\$4,251,300	\$4,407,200	\$3,327,200	\$3,115,800
Revenue	<u>3,234,000</u>	<u>2,795,000</u>	<u>2,795,000</u>	<u>2,795,000</u>
Total Available	\$7,485,300	\$7,202,200	\$6,122,200	\$5,910,800
Total Expenditures	\$2,437,100	\$2,150,000	\$2,473,900	\$2,473,900
Transfers	641,000	1,725,000	532,500	532,500
Closing Balance	\$4,407,200	\$3,327,200	\$3,115,800	\$2,904,400

18. Clean sweep program demand has exceeded DATCP's ability to fill grants in recent years. Grant applicants requested a total of \$1,195,500 in funding for the 2009 grant year. In part to reflect interest in household hazardous waste collections, particularly for unwanted pharmaceuticals, DATCP's agency request for the 2009-11 biennium included funding for expansion of pharmaceutical collections. Further, it could be argued that clean sweep programs serve an important purpose by disposing of unwanted and hazardous chemicals in households and on farms that could be improperly used or inadvertently released. Such instances could pose risks to the environment and to the health of persons exposed to the use or release.

19. However, the repeal of clean sweep grants would not prohibit local units of government from continuing to offer programs. A number of grant recipients intend to continue collections if the program is repealed. It could also be argued that state funding for the clean sweep program should serve as start-up funding to foster local programs, but should not be a continuous source of funding. Further, municipalities with residents interested in a clean sweep program could explore and implement programs that recoup costs from persons who use the collection to dispose of household chemicals and wastes.

20. If the Committee wished to restore funding for clean sweep grants, it could select one or more of the segregated funds listed above to serve as a funding source (Alternative 4). The

ACM or ACCP funds may be the most appropriate for the clean sweep program. The funds' revenue sources relate broadly to the manufacture, distribution or application of agricultural fertilizers, pesticides and other products. Clean sweep events collect pesticides and other chemicals from households and agricultural producers to ensure the substances' proper disposal, as opposed to households and agricultural producers disposing of them in ways that will allow the substances to enter surface waters, groundwater or soils. The ACM fund receives more fees related to household and agricultural chemicals and other retail products, which are among the substances most likely to be deposited at clean sweep events, than does the ACCP fund. The ACM fund received approximately \$1.5 million in 2007-08 for license fees on household pesticides, over 22% of total ACM revenues. The ACCP fund receives funds mostly from non-household pesticides registrations, commercial pesticide enterprises and fertilizer tonnage fees, and it disburses funds primarily for the cleanup of contamination at commercial and farm sites.

21. The recycling fund may also be viewed as an appropriate funding source, as clean sweep events reduce pesticides, pharmaceuticals, and other chemicals that may otherwise be taken to landfills.

22. Restoring some funding and phasing out the program over the biennium could be considered. Providing \$660,000 in 2009-10 and \$330,000 in 2010-11 and repealing the program effective June 30, 2011 (Alternative 3e) would allow two additional years of grants. Phasing out clean sweep funding over the 2009-11 biennium could also limit the segregated funds' exposure to ongoing expenditures. A program phase-out would give municipalities additional time to plan for the elimination of clean sweep. If funding were estimated to be available prior to the 2011-2013 biennium, the Governor and Legislature could restore the program by eliminating the sunset at that time.

23. If the Committee wishes to continue funding for clean sweep, it could restore \$102,900 ACM SEG with 1.0 position in DATCP to administer the grant program (Alternative 5).

24. Restoring funding at a lower level than currently appropriated could be considered. The Committee may wish to specify a lower cost-share rate to allow for greater distribution of funds appropriated. DATCP currently may award up to 75% of the cost of a project. A cost-share rate of two-thirds (Alternative 6b) or 50% (Alternative 6c) may allow for grants to reach a greater number of applicants if funding is reduced from the 2008-09 level.

25. Under the alternatives that would maintain some level of funding for the program during the biennium, the bill would provide the Governor with authority to transfer funds from the appropriated amount to the general fund as part of the allocation of SEG and PR lapses to benefit the general fund balance. Therefore, it is uncertain whether any grants would be awarded in 2009-11. If the Committee did not want any funds appropriated for the program transferred to the general fund, a provision could be included prohibiting transfers from the clean sweep grants to the general fund during the biennium (Alternative 7).

ALTERNATIVES

1. Approve the Governor's recommendation to: (a) eliminate \$1,000,000 recycling

fund SEG, and \$102,900 ACM SEG with 1.0 position annually; and (b) repeal statutory authorization for the clean sweep grant program.

2. Restore the statutory appropriation and authorization for DATCP to administer a clean sweep grant program. (No funding would be provided in 2009-11.)

3. Restore the statutory appropriation and authorization for DATCP to administer a clean sweep grant program. In addition, provide one of the following annual amounts:

- a. \$1,000,000;
- b. \$750,000;
- c. \$500,000;
- d. \$250,000;
- e. \$660,000 in 2009-10 and \$330,000 in 2010-11, but repeal the program authorization and appropriation effective June 30, 2011.

4. In addition to Alternative 3, specify one of the following funding sources:

- a. The recycling and renewable energy fund (current law);
- b. The ACM fund;
- c. The ACCP fund;
- d. One-third from each fund;
- e. One-half each from recycling and ACM.

5. Restore \$102,900 ACM SEG annually with 1.0 position for administration of the program.

ALT 5	Change to Bill	
	Funding	Positions
SEG	\$205,800	1.00

6. Specify that DATCP may award up to the following for a clean sweep project:

- a. 75% (current law);
- b. Two-thirds;
- c. 50%.

7. Prohibit the transfer of funds from the clean sweep grant program appropriation to the general fund in the 2009-11 biennium.

8. Delete provision. (This would restore the statutory authority, appropriation and staffing for the program, including \$1,000,000 recycling SEG for grants and \$102,900 with 1.0 ACM SEG position annually.)

ALT 8	Change to Bill	
	Funding	Positions
SEG	\$2,205,800	1.00

Prepared by: Paul Ferguson
Attachment

ATTACHMENT

2008 Clean Sweep Grant Recipients

<u>Agency</u>	<u>Agricultural Grant Amount</u>	<u>Household Hazardous Waste Grant Amount</u>	<u>Prescription Drug Grant Amount</u>	<u>Total</u>
Barron County	\$8,000	\$14,000		\$22,000
Brookfield (City)	-	-	\$10,000	10,000
Brown County	0	18,000		18,000
Buffalo County	7,000	14,000		21,000
Burlington (City)	0	13,500		13,500
Caledonia / Mount Pleasant (Village)	0	13,500		13,500
Dane County / City of Madison	-	-	13,931	13,931
Dane / Columbia Counties	11,000	18,000		29,000
Dodge County	8,000	14,000		22,000
Dunn County	12,000	18,000	6,125	36,125
Green Lake County	8,000	14,000		22,000
Jackson County	9,000	8,500		17,500
Jefferson County	11,000	18,000	5,000	34,000
Kewaunee / Door Counties	-	-	10,000	10,000
LaCrosse / Adams / Crawford / Juneau / Monroe / Vernon Counties	40,000	70,000		110,000
Langlade County	7,000	14,000		21,000
Lincoln County	3,000	7,000		10,000
Manitowoc / Calumet / Sheboygan Counties	20,000	41,580		61,580
Manitowoc / Sheboygan Counties	-	-	10,000	10,000
Marathon County	8,000	14,000		22,000
Marquette County	7,000	14,000		21,000
Northwest Regional Planning Commission	40,000	50,000		90,000
Oconto County	-	-	3,889	3,889
Oneida / Vilas Counties	12,000	18,000	4,980	34,980
Outagamie / Calumet / Winnebago Counties	0	29,575		29,575
Pepin County	3,469	6,776		10,245
Pierce County	8,000	14,000		22,000
Polk County	11,000	18,000		29,000
Portage County	5,000	18,000		23,000
Racine (City)	0	18,000		18,000
Rochester (Village/Town)	0	10,575		10,575
Rock County	8,000	14,000	10,000	32,000
St. Croix County	12,000	18,000		30,000
Walworth County	0	13,500	2,700	16,200
Washington County	8,000	14,000		22,000
Waukesha County	8,000	18,000		26,000
Waupaca / Calumet / Outagamie / Winnebago Counties	-	-	14,000	14,000
Waupaca / Waushara Counties	0	18,000		18,000
Wood County	10,000	18,000	5,000	33,000
Total	\$284,469	\$620,506	\$95,625	\$1,000,600