

Report From Agency

DATCP Docket No. 12-R-05
Clearinghouse Rule No. 14-007

Proposed Final Draft
November 5, 2014

**PROPOSED ORDER OF THE
STATE OF WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION
ADOPTING RULES**

1 The Wisconsin department of agriculture, trade and consumer protection proposes the following
2 permanent rule *to repeal* ATCP 34.06 (3) (a) 4. and (Note), (h) and (i), 34.08 (2) (g) and (h), 34.12 (2)
3 (f), 34.14 (1) (b), and 34.18 (1) (e); *to amend* ATCP 34.01 (intro.), 34.02 (6), (17), and (18), 34.04 (1)
4 (b), (2) (b) and (c), and (5) (b) (intro.), 34.06 (2) (intro.) and (a), (3) (intro.) and (a) 2., (b) to (d), (f), (g),
5 (m) and (Note), 34.08 (1), and (2) (title) and (intro.), and (a) to (e), 34.10 (2), (3) and (4) and (title),
6 34.12 (3) (a), 34.16 (1) (a), (2), (3) and (title), and (4) (title) and (a), 34.18 (1) (intro.), (a) to (d), and (f),
7 34.18 (2) (a) and (b); and *to create* ATCP 34.02 (5) (c), (6) (Note), (13m), (14g) and (Note), (17) (Note),
8 (17g), (17r) (a) and (b) , 34.04 (1) (a) 3., 34.04 (2) (e) to (g), and 34.04 (3) (h) to (k), 34.06 (1) (Note),
9 34.10 (3m) and (Note), 34.16 (2) (Note), and 34.16 (4) 9.; *relating to* the clean sweep program.

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

This rule modifies ch. ATCP 34, Wis. Admin. Code, related to Wisconsin’s “clean sweep” program. The department of agriculture, trade and consumer protection (“DATCP” or “department”) administers the program pursuant to its authority in Chapter 93, Stats. The clean sweep program is designed to distribute grant funds to counties and municipalities. The funds pay for costs associated with collecting and safely disposing of agricultural pesticides, farm chemical waste and household hazardous waste that might otherwise pose a threat to public health or the environment. Program funds are also used to collect unwanted prescription drugs and veterinary drugs from individuals. This rule does not alter the level of available funding for the clean sweep program.

This rule will:

- Update provisions related to grant applications, grant evaluation and approval, grant contracts, reporting requirements, reimbursement procedures, selection of hazardous waste handlers, and

other matters to keep up with developments in programs relating to the collection of hazardous wastes.

- Add standards for the statutory “unwanted prescription drugs” component of the clean sweep program to the rule.
- Amend the rule to resolve existing conflicts between the statute and rule concerning funding amounts for the grants and to take into consideration the overall needs of grant recipients.
- Reduce paperwork by permitting electronic applications for grants. Make changes to improve the administrative and operational efficiency of the “clean sweep” program.

Statutes Interpreted

Statutes Interpreted: ss. 93.55 and 93.57, Stats.

Statutory Authority

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

Explanation of Agency Authority

DATCP has authority under s. 93.07 (1), Stats., to make regulations as necessary for the proper enforcement of Chapters 93 to 100, which includes the administration of the clean sweep grant program. Grants go to local governments for the collection of agricultural and household hazardous waste, including unwanted prescription drugs, as required under ss. 93.55 and 93.57, Stats. The department considers it necessary to adopt rules to establish the basis for grant determinations in order to effectuate these laws.

Related Rules or Statutes

Wisconsin statutes and rules relating to the manufacture, distribution, and use of pesticides in Wisconsin are set forth in ss. 94.67 to 94.71, Stats., and chs. ATCP 29 and 30, Wis. Admin. Code. Waste management is governed by ch. 289, Stats., and ch. NR 500, Wis. Admin. Code. The manufacture, distribution and dispensing of prescription drugs falls under the authority of the Pharmacy Examining Board. *See* ch. 450, Stats. “Veterinary prescription drugs” is defined in s. 453.02 (11), Stats. The Uniform Controlled Substances Act sets standards for prescription drugs that are “controlled substances,” pursuant to ch. 961, Stats. On April 8, 2014, 2013 Wisconsin Act 198 was published, which in part authorizes a political subdivision or a designee to operate a drug disposal program, effective July 1, 2015. Wisconsin clean sweep projects that collect unwanted prescription drugs will need to follow requirements in this statute.

Plain Language Analysis

Under the clean sweep program, DATCP distributes grants to counties and other local governments to assist in funding their hazardous waste collection events and permanent waste collection sites. The clean

sweep program was established in 1990 to provide financial assistance to Wisconsin counties to collect unwanted agricultural pesticides. In 2004, the program expanded to provide grants to local governments to collect household hazardous wastes such as acids, flammable chemicals, mercury, lead paint, and solvents. In 2007, Wis. Act 20 was enacted, which authorized the department to include the funding of county, municipal, and regional planning commission programs to collect unwanted prescription drugs, which include controlled substances, analgesics, anti-inflammatory drugs, antibiotics, gastrointestinal drugs, and antihistamines. DATCP implemented a pilot prescription drug program to develop standards for issuing grants related to collection of unwanted prescription drugs, and those standards are now incorporated into this rule.

Other changes in the rule are designed to improve the operational and administrative efficiency of the program for the department and local governments that participate in the “clean sweep” program. Since 1990, the program has matured and several current requirements are no longer needed. At the same time, the needs of the grant recipients have changed. These rule revisions address these changes and reflect the current state of hazardous waste collection in Wisconsin.

Rule Content

This rule amends ch. ATCP 34 relating to the clean sweep program. The following provides a summary of the rule changes by section topic:

Section on the Purpose of the Rule

The establishment of procedures for making grants to local governments to dispose of unwanted prescription drugs will be added to the “Purpose” section of the rule.

Section on Definitions

The term “unwanted prescription drug” is added and includes Schedule II to V controlled substances, and nonprescription drug products. It also includes prescribed and over-the-counter veterinary drugs. The definition specifically excludes chemotherapy drugs, trace chemotherapy waste, infectious waste, and products that contain elemental mercury like thermometers. The unwanted prescription drug must come from a place where the individual, a member of the individual’s household, an in-home hospice service, or an adult family home serving fewer than five adult members manages the use of the unwanted prescription drug.

When local governments first decided to collect pesticide and household wastes, they often held one- or two-day collection “events.” Since then, many local governments have expanded to multiple collections or have established permanent collection sites that offer convenience for local residents. The rule removes the term “event” and refers to a clean sweep project as a “collection.”

A “temporary collection” means a clean sweep project that collects hazardous waste five days or less in a calendar year. A “continuous collection” means a clean sweep project that collects chemicals on six or more days in a calendar year. Initially, comments during DATCP listening sessions on the clean sweep program showed a desire to broaden the gap in time periods between temporary and continuous collections, DATCP did amend these definitions in the initial hearing draft. However, comments

received during the rule's public hearings indicated that there was no benefit to be gained by the proposed change in definitions. In fact, some collection projects would be unable to stay at a continuous collection level, which would ability of local governments to serve their communities because temporary collections must request lower funding levels. Therefore, DATCP's proposed change to broaden the gap between "temporary" and "continuous" collections was removed from the proposed final rule.

Section on Grants to Counties and Municipalities

- **Drug Drop Boxes.** Currently, clean sweep grant funds cannot be used to purchase permanent equipment. However, a large expense associated with the collection of unwanted prescription drugs is a drug drop box. These drop boxes are a secure place for residents to dispose of their unwanted prescription and veterinary drugs. The boxes typically are located within law enforcement agencies and are designed in such a way that drugs cannot be removed except by authorized personnel. The rule would allow a local government to request funds for the direct costs associated with the purchase and installation of a drug drop box.
- **Disposal of Dual-Hazardous Waste.** This rule will allow counties and municipalities to request reimbursement for the disposal of delivery devices that contain medication such as epinephrine auto-injectors (an example is an EpiPen®) or prefilled syringes. Disposal costs for sharps such as needles or lancets would remain ineligible for reimbursement.
- **Eligible Costs: Direct Costs** related to the collection and disposal of unwanted prescription drugs were specified within the hearing draft. In the final draft, some modifications were made to specify eligibility of the collection and disposal of mercury-containing devices under a household hazardous waste collection.
- **Prohibited Uses:** Prohibited uses of grant funds is expanded to include infectious waste, hypodermic needles and lancets, personal care products, and oxygen-containing devices.

Section on Grant Applications

- **Grant Solicitation Announcements.** This rule expands the methods of soliciting applications for clean sweep grant funds beyond just written announcements.
- **Grant Fund Amounts.** Wis. Admin. Code ch. ATCP 34 states that the department shall offer no less than \$400,000 for farm chemical waste collection and not less than \$200,000 for household hazardous waste collection. In recent years, the demand for the collection and disposal of household hazardous waste has outpaced agricultural pesticides and farm chemical waste. Also, with the statutory addition of grants for unwanted prescription drug collections in 2008, a different allocation of funds among the collection grants is now required. The new statutory language requires the department to offer a minimum of two-thirds of the available funds for household hazardous waste under s. 93.57, Stats. This rule reflects the change in statutory requirements and eliminates the conflict between rule and statute. This change is also supported by the data collected from clean sweeps in recent years. The demand for household hazardous waste disposal is increasing while the demand for agricultural waste disposal is declining. Household waste disposal demand is outpacing agricultural demand by about a 16:1 margin,

based on 2013 collection data.

- **Grant Applications.** The current rule requires that grant applications be submitted on a form provided by the department. To keep up with changing and available technology such as electronic or web-based applications, the rule specifies that future applications will be submitted in a manner designated by DATCP.
- **Required Information in Applications.** Because of the gap between grant submittal and acceptance and the possibility that a grant may not be funded, this rule specifies that applicants no longer have to provide specific dates, locations and facilities for collections. The department will gather that information after grants are awarded. The rule also removes the requirement that an applicant describe its plans for collecting, handling and disposing of chemical waste. Clean sweep collections are not new and local governments and waste haulers have developed much experience since 1990. Finally, because multi-government collections are quite common as a way to reach more residents and gain efficiencies with collections, applicants no longer need to describe the role of each government participant under this rule.

Section on Evaluating Grant Applications

Evaluation of Eligible Applications. Under this rule, the department will modify the criteria used to assess clean sweep grant applications. Early in the program's history, applicants were encouraged to collect farm and household waste and determine what chemicals were of concern in their areas. Now the majority of applicants are experienced project coordinators familiar with local needs and available resources. For some, it is impractical to collect more than one waste type because there is no need. Because of the experience of the local government coordinators and their staff, evaluating an application based on its safety and suitability is no longer necessary. Coordination across multiple governments is encouraged and points are awarded for these types of collections, but it is no longer necessary to place a priority on such coordination.

Section on Grant Awards

Farm Waste and Household Waste. This proposed section reflects the changes in the statute for grant awards and removes the discrepancy between statute and rule. The current rule states that the department will annually award grants totaling at least \$400,000 for farm chemical waste, while the statute directs that the department to offer a minimum of two-thirds of the available funds for household hazardous waste. This rule corrects the discrepancy by taking into consideration the current appropriation under s. 20.115 (7) (va), Stats.

Section on Grant Contracts

- **Hazardous Waste Contract.** This rule removes the requirement that the written contract between the department and the clean sweep grant recipient include the recipient's contract with its hazardous waste contractor. The department has found that the information provided in the grant applications is sufficient to make awards.

- Limited Funding. Should the amount of grant funds available be insufficient to cover the awarded grants, the department has the ability to cancel one or more of the grants at its discretion.

Section on Collecting Waste Pesticides from Very Small Quantity Generators (VSQGs)

Generally, a “VSQG” is an individual or business who generates limited quantities of waste pesticides and can include certain hardware stores, farm supply stores, cooperatives, municipalities, or commercial pesticide applicators. This proposed section removes the requirement that a county must collect the license status of a VSQG licensed under ch. ATCP 29. As long as the VSQG’s name and address is captured, the department can verify licensure, if necessary.

Section on Hazardous Waste

Hazardous Waste Contractor. This proposed section incorporates unwanted prescription drug collection into the rule. It also removes the requirement that hazardous waste contractors selected by grant recipients attend a training session provided by the department. This was a necessary requirement in the early days of the program but is no longer needed since the program participants, including waste contractors, have gained experience and familiarity with the clean sweep program rules.

Section on Reports and Payments

Final Report. This proposed section allows for a 45-day extension on the final report deadline. Other required elements of the final report are consolidated within the rule. This proposed section removes the requirements to estimate future collection needs, the timing of collection and suggestions on how to collect chemical waste, which are considered no longer necessary with a mature program.

Comparison with Existing or Proposed Federal Statutes and Regulations

The United States environmental protection agency (EPA) administers the Resource Conservation and Recovery Act (RCRA), which includes regulations affecting the collection, movement, and disposal of hazardous agricultural and household waste. EPA has also adopted universal waste management rules under 40 CFR 273. Wisconsin’s “clean sweep” grantees and vendors must comply with all applicable RCRA and universal waste provisions.

Prescription drugs that are controlled substances are regulated under the federal Controlled Substance Act (21 USC 801) and the Controlled Substances Import and Export Act (21 USC 951). On September 9, 2014, the federal drug enforcement administration published its final regulations on prescription drug disposal under the Secure and Responsible Drug Disposal Act of 2010, which took effect on October 9, 2014. Wisconsin’s prescription drug “clean sweep” program must comply with all these federal laws and regulations.

Comparison with Rules in Adjacent States

The surrounding states of Illinois, Iowa, Michigan and Minnesota also collect unwanted pesticides, household hazardous waste or unwanted prescription drugs. The agencies involved, their funding sources, and distribution of funds vary greatly. Wisconsin is the only state that has one agency overseeing these various types of grants.

Illinois

Illinois offers a grant for agricultural and structural pesticide collections through the Illinois department of agriculture. The Illinois environmental protection agency also offers four one-day collections for household hazardous waste and unwanted drugs, in addition to some county hosted events. Illinois's Prescription Pill and Drug Disposal Fund provides reimbursement to law enforcement agencies for collection, transport and incineration of medicines collected from residential sources.

Iowa

Iowa no longer holds household hazardous waste collection days and eliminated the award of grants to fund those one-day collections. Instead, the Iowa department of natural resources offers Regional Collection Centers (RCCs) that are open year-round. These RCCs take household waste but can also accept agricultural waste at their discretion. In addition to main RCCs, there are satellite RCC sites and mobile collections that contract with an RCC and travel within a county for collections. Iowa offers two kinds of funds: (1) reimbursement funds to cover operating expenses/disposal costs, and (2) establishment funds to help a county set up a permanent site. Unlike Wisconsin's clean sweep program, Iowa allows its funds to be used to build permanent facilities.

Iowa also offers a pharmaceutical disposal program called TakeAway, in which patients or caregivers can bring unwanted or expired medicines to participating TakeAway pharmacies. The pharmacist will dispose of the returned medications (prescription drugs or over-the-counter products) into a waste bin specially designed to safely store discarded pharmaceutical products, along with their packaging. Once filled, the TakeAway system is sealed and shipped to a medication disposal facility where the system and its contents are incinerated at a waste-to-energy facility. Some participating pharmacies also sell TakeAway envelopes, pre-addressed, postage pre-paid large envelopes that can be taken into the home, filled with unused and expired medicine, and mailed through the United States postal service to the disposal facility. Controlled substances must go to law enforcement or one of the United State drug enforcement administration collections.

Michigan

Michigan offers a clean sweep program for agricultural pesticides through its department of agriculture & rural development (MDARD). The Michigan department of environmental quality covers household collections, supported by an EPA grant. No grants are given. MDARD will cover the cost of transportation and disposal costs of pesticides collected at household events.

Minnesota

Minnesota enters into cooperative agreements with counties to collect non-agricultural and agricultural waste pesticides. For those counties without a cooperative agreement, the Minnesota department of agriculture (MDA) holds collections. Agricultural pesticides are collected every other year and household hazardous wastes are collected each year. MDA pays supplies, transportation and disposal costs and \$0.25/lb. for "reasonable overhead costs." The Minnesota pollution control agency (MPCA) provides stipends to counties for household hazardous waste collections. Stipends cover about 10

percent of costs and are determined by different formulas. Minnesota does not offer drug grants. Collections, transportation and disposal are overseen by county law enforcement and the counties pay all associated costs.

Summary of Factual Data and Analytical Methodologies

To develop this rule, four listening sessions were held throughout Wisconsin. Participants included representatives from local government entities that are current and past grant recipients, many of whom manage county or municipal solid waste programs. Comments were also received from law enforcement agencies that administer unwanted prescription drug collections.

Fiscal Impact

There will be no fiscal impact from this rule revision. The amount of available grant funds will not change under this rule revision nor have eligibility requirements changed. *(See attached Fiscal Estimate and Economic Impact Analysis.)*

Analysis and Supporting Documents Used to Determine Effect on Small Business or in Preparation of an Economic Impact Analysis

No supporting documents were used. DATCP relied on information obtained through the listening sessions (See Summary of Data and Analytical Methodologies, above), as well as any comments received through the economic impact analysis comment period.

Effects on Specific Businesses and Business Sectors

This rule revision will have no effect on small business. By statute, the department may only award grants under the clean sweep program to *local government entities* for expenses related to the collection of and disposal of unused agricultural pesticides, household waste, and unwanted prescription drugs. No changes have been made to the current rule that directly would impact small businesses. The rule will continue to benefit certain small businesses such as farmers, farm supply stores, and cooperatives that generate small quantities of waste pesticides per month, since clean sweep collections provide a no- or low-cost method of disposing of agricultural pesticides and other farm chemical waste.

DATCP Contact Information

Questions and comments related to this rule may be directed to:

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1 **SECTION 1.** ATCP 34.01 (intro.) is amended to read:

2 ATCP 34.01 **Purpose.** This chapter establishes procedures for the agricultural chemical and
3 container collection grant program under s. 93.55, Stats., and the household hazardous waste, and
4 unwanted prescription drug grant program programs under s. 93.57, Stats.

5 **SECTION 2.** ATCP 34.02 (5) (c) is created to read:

6 ATCP 34.02 (5) (c) Unwanted prescription drugs.

7 **SECTION 3.** ATCP 34.02 (6) is amended to read:

8 ATCP 34.02 (6) “Continuous collection-~~event~~” means a clean sweep project that collects
9 chemical waste or unwanted prescription drugs on at least 4 days in a calendar year.

10 **SECTION 4.** ATCP 34.02 (6) (Note) is created to read:

11 **Note:** Grant recipients will be responsible for verifying that any clean sweep project in which a
12 collection is made by a “temporary collection facility” or “permanent collection facility”
13 as defined in s. NR 666.901 meet all applicable ch. NR 666 regulations.

14 **SECTION 5.** ATCP 34.02 (13m) is created to read:

15 ATCP 34.02 (13m) “In-kind costs” means a payment given in goods, commodities or services,
16 rather than money.

17 **SECTION 6.** ATCP 34.02 (14g) and (Note) are created to read:

18 ATCP 34.02 (14g) “Permanent collection” means a clean sweep project that collects chemical
19 waste or unwanted prescription drugs under this program during at least 6 months of the year and
20 includes permanent infrastructure for waste collection.

21 **Note:** A clean sweep project for which a collection is made by a “permanent collection facility”
22 as defined in s. NR. 666.901 (5) must meet all applicable ch. NR 666 regulations.

23 **SECTION 7.** ATCP 34.02 (17) is amended to read:

24 ATCP 34.02 (17) “Temporary collection-~~event~~” means a clean sweep project that collects chemical
25 waste or unwanted prescription drugs on fewer than 4 days in a calendar year.

1 **SECTION 8.** ATCP 34.02 (17) (Note) is created to read:

2 **Note:** A clean sweep project for which a collection is made by a “temporary collection facility”
3 as defined in s. NR 666.901 (6) must meet all applicable NR 666 regulations.

4
5 **SECTION 9.** ATCP 34.02 (17g) and (17r) (a) and (b) are created to read:

6 ATCP 34.02 (17g) “Total project cost” means the sum of all reimbursable direct costs, as
7 provided under s. ATCP 34.04 (2), and in-kind costs.

8 (17r) (a) Except as provided under par. (b), “unwanted prescription drug” means
9 any of the following if lawfully possessed by an individual for the individual’s own use, for the use of a
10 member of the individual’s household, or for the use of an animal owned by the individual or a member
11 of the individual’s household, and if located in or comes from a place where the individual, a member of
12 the individual’s household, an in-home hospice service, or an adult family home serving fewer than 5
13 adult members manages the use of the unwanted prescription drug:

- 14 1. A prescription drug, as defined in s. 450.01(20);
- 15 2. A nonprescription drug product as defined in s. 450.01 (13m), Stats.
- 16 3. A veterinary prescription drug as defined in s. 453.02 (11), Stats.
- 17 4. A veterinary over-the-counter drug as defined in s. 453.02 (10), Stats.
- 18 5. A delivery device with a needle that contains a prescription drug or veterinary prescription
19 drug such as a pre-filled syringe or auto-injector, but not intravenous bags or tubing.

20 (b) An unwanted prescription drug does not include any of the following:

- 21 1. Chemotherapy drugs.
- 22 2. Trace chemotherapy waste as defined in s. NR 500.03 (237m).
- 23 3. Any item containing elemental mercury, such as a thermometer.
- 24 4. Infectious waste as defined in s. 287.07 (7) (c) 1.c., Stats.

25 **SECTION 10.** ACTP 34.02 (18) is amended to read:

1 ATCP 34.02 (18) “Very small quantity generator” has the meaning given in s. NR-~~666.220~~
2 660.10 (139).

3 **SECTION 11.** ATCP 34.04 (1) (a) 3. is created to read:

4 ATCP 34.04 (1) (a) 3. Unwanted prescription drugs.

5 **SECTION 12.** ATCP 34.04 (1) (b) and (2) (b) and (c) are amended to read:

6 ATCP 34.04 (1) (b) The department may award a clean sweep grant to a municipality for a clean
7 sweep project to collect household hazardous waste or unwanted prescription drugs.

8 ATCP 34.04 (2) (b) Direct costs for equipment rentals, supplies and services used to operate the
9 collection site and handle collected chemical waste or unwanted prescription drugs.

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

12 **SECTION 13.** ATCP 34.04 (2) (e) to (g) are created to read:

13 ATCP 34.04 (2) (e) Direct costs for purchase and installation of permanent drug drop boxes for
14 unwanted prescription drugs.

15 (f) Direct costs to hire a qualified waste contractor to receive, pack, transport and dispose of
16 unwanted prescription drugs.

17 (g) Direct costs for the collection and disposal of mercury containing devices including
18 thermometers or thermostats, are acceptable under household hazardous waste collections.

19 **SECTION 14.** ATCP 34.04 (3) (h) to (k) are created to read:

20 ATCP 34.04 (3) (h) Infectious waste as defined by s. 287.07 (7) (c) 1. c., Stats.

21 (i) Personal care products including soap, shampoo, and toothpaste.

22 (j) Medical devices or oxygen-containing devices for which another collection, disposal or
23 recycling option is available.

1 (k) Hypodermic needles or lancets.

2 **SECTION 15.** ATCP 34.04 (5) (b) (intro.) is amended to read:

3 ATCP 34.04 (5) (b) For a continuous or permanent collection ~~event~~, a grant recipient's
4 contribution under par. (a) may include any of the following costs that are directly related to the
5 collection and handling of chemical waste collected at that event:

6 **SECTION 16.** ATCP 34.06 (1) (Note) is created to read:

7 **Note:** Pursuant to s. 20.002 (10), Stats., a grant by a state agency made to any city, county,
8 village, or town for any purpose also may be granted by that state agency to any federally
9 recognized tribal governing body for the same purpose.

10
11 **SECTION 17.** ATCP 34.06 (2) (intro.) and (a) are amended to read:

12 ATCP 34.06 (2) ANNOUNCEMENT SOLICITING GRANT APPLICATIONS. The department shall
13 issue an ~~written~~ announcement soliciting grant applications under sub. (1) for the next calendar year if
14 grant funding may be available for any part of that calendar year. The announcements shall specify the
15 general terms and conditions for grant awards, including all of the following:

16 (a) The total amount available for clean sweep project grants, including separate amounts available
17 for farm chemical waste collection projects and household hazardous waste collection projects. Subject
18 to budget appropriations, the department shall offer ~~no less than \$400,000 for farm chemical waste~~
19 ~~collection grants and no less than \$200,000~~ a minimum of two-thirds of the funds available from the
20 appropriation account under s. 20.115 (7) (va), Stats., for household hazardous waste collection grants.

21 **SECTION 18.** ATCP 34.06 (3) (intro.) and (a) 2. are amended to read:

22 ATCP 34.06 (3) APPLICATION CONTENTS. A county or municipality shall submit its grant
23 application under sub. (1) ~~on a form provided in a manner designated~~ by the department. The
24 application shall comply with requirements contained in the department's announcement under sub. (2)
25 and shall describe all of the following:

1 (a) 2. ~~Whether the project will collect farm chemical waste, household hazardous waste or both.~~

2 Types of wastes collected.

3 **SECTION 19.** ATCP 34.06 (3) (a) 4. and (Note) are repealed.

4 **SECTION 20.** ATCP 34.06 (3) (b) to (d), (f) and (g) are amended to read:

5 (b) The proposed collection sites, if known.

6 (c) The proposed collection dates ~~and times,~~ if known.

7 (d) The proposed collection facilities ~~and procedures,~~ if known.

8 (f) A schedule of fees, if any, which the applicant proposes to charge to persons from whom it
9 collects ~~waste chemicals~~ chemical waste or unwanted prescription drugs. A county may not charge an
10 agricultural producer for the first 200 pounds of farm chemical waste collected from that agricultural
11 producer, but may charge fees for amounts over 200 pounds of farm chemical waste or for agricultural
12 producers disposing of any household hazardous waste or any unwanted prescription drugs.

13 (g) The hazardous waste contractor who will handle, transport and dispose of hazardous waste
14 or unwanted prescription drugs collected in the clean sweep project.

15 **SECTION 21.** ATCP 34.06 (3) (h) and (i) are repealed.

16 **SECTION 22.** ATCP 34.06 (3) (m) and (Note) are amended to read:

17 (m) The agency and individual that are primarily responsible for coordinating the project on
18 behalf of the applicant, and any other agencies involved in implementing the project. ~~If the project will~~
19 ~~involve multiple units of government, the application shall describe the role of each actively participating~~
20 ~~government unit.~~

21 Note: ~~Copies of the~~ The grant application form and related evaluation criteria are available from
22 the department at the following address: Department of Agriculture, Trade and
23 Consumer Protection, Agricultural Resource Management Division, PO Box 8911,
24 Madison, WI 53708-8911 or <http://datcp.wi.gov>.
25

26 **SECTION 23.** ATCP 34.08 (1), (2) (title) and (intro.), and (a) to (e) are amended to read:

1 ATCP 34.08 **Evaluating grant applications.** (1) DETERMINING ELIGIBILITY. The department
2 shall review each grant application under s. ATCP 34.06 (3) to determine whether it complies with
3 minimum eligibility requirements under this chapter. ~~The department shall conduct this review before~~
4 ~~the department ranks eligible grant applications under sub. (2).~~ The department shall reject grant
5 applications that fail to meet minimum eligibility requirements, or that fail to comply with application
6 procedures prescribed under s. ATCP 34.06 (2).

7 (2) ~~RANKING~~ EVALUATING ELIGIBLE GRANT APPLICATIONS. The department shall ~~rank~~ evaluate
8 each year's eligible grant applications under s. ATCP 34.06 (1). The department may consider the
9 following criteria, and other criteria set forth in the department's notices under s. ATCP 34.06 (2):

10 (a) The types of chemical wastes or unwanted prescription drugs to be collected. ~~The department~~
11 ~~may give priority to projects that do one or more of the following:~~

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

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

19 (c) The convenience of the collection service. The department may give priority to projects
20 offering conveniences, such as continuous ~~collection events~~ or permanent collections, multiple
21 collection locations and multiple collection periods, which are reasonably designed to maximize public
22 participation.

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

- 4 1. Reach and involve target audiences holding chemical wastes or unwanted prescription drugs.
- 5 2. Minimize future generation of chemical waste or unwanted prescription drugs.

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

9 **SECTION 24.** ATCP 34.08 (2) (g) and (h) are repealed.

10 **SECTION 25.** ATCP 34.10 (2) and (3) are amended to read:

11 ATCP 34.10 (2) FARM CHEMICAL WASTE COLLECTION PROJECTS. The department shall annually
12 award clean sweep grants for farm chemical waste collection projects based on the ranking evaluation
13 under s. ATCP 34.08 (2). ~~The department shall annually award grants totaling at least \$400,000 for~~
14 ~~farm chemical waste collection projects, subject to eligible grant application requests and available~~
15 ~~appropriations.~~

16 (3) HOUSEHOLD HAZARDOUS WASTE COLLECTION PROJECTS. The department shall annually
17 award clean sweep grants for household hazardous waste collection projects based on the ranking
18 evaluation under s. ATCP 34.08 (2). The department shall annually award ~~grants totaling at least~~
19 ~~\$200,000 for household hazardous waste collection projects, subject to eligible grant application~~
20 ~~requests and available appropriations~~ a minimum of two-thirds of the funds available from the
21 appropriation account under s. 20.115 (7) (va), Stats.

22 **SECTION 26.** ATCP 34.10 (3m) and (Note) are created to read:

1 ATCP 34.10 (3m) UNWANTED PRESCRIPTION DRUG COLLECTION PROJECTS. The department
2 shall annually award clean sweep grants for unwanted prescription drug collection projects based on the
3 evaluation under s. ATCP 34.08 (2).

4 Note: Unwanted prescription drug collection projects must comply with drug disposal program
5 requirements in s.165.65, Stats., effective 7-01-15 created by 2013 Wis. Act 198.

6
7 **SECTION 27.** ATCP 34.10 (4) and (title) is amended to read:

8 ATCP 34.10 (4) ~~REMAINING GRANT FUNDS~~ GRANT FUNDING. The department shall annually
9 award a minimum of two-thirds of the funds available from the appropriation account under s. 20.115
10 (7) (va), Stats., for household hazardous waste collection projects and unwanted prescription drug
11 projects. The remaining funds go to farm chemical waste collection projects. Following awards under
12 subs. (2) ~~and (3) and (3m)~~, the department may award grant funds for other projects ~~based on their~~
13 ~~ranking under s. ATCP 34.08 (2)~~, without regard to whether the projects will collect farm chemical
14 waste, ~~or~~ household hazardous waste or unwanted prescription drugs.

15 **SECTION 28.** ATCP 34.12 (2) (f) is repealed.

16 **SECTION 29.** ATCP 34.12 (3) (a) is amended to read:

17 ATCP 34.12 (3) (a) Cancel one or more of the grants ~~in the reverse order in which they were~~
18 ~~awarded.~~

19 **SECTION 30.** ATCP 34.14 (1) (b) is repealed.

20 **SECTION 31.** ATCP 34.16 (1) (a) and (2) are amended to read:

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

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

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

9 **SECTION 32.** ATCP 34.16 (2) (Note) is created to read:

10 **Note:** Management of controlled substances must follow the regulations under the federal drug
11 enforcement administration's final rule for the disposal of controlled substances, which
12 implements the Secure and Responsible Drug Disposal Act of 2010, and includes using
13 law enforcement to handle controlled substances where applicable.

14 **SECTION 33.** ATCP 34.16 (3) and (title) and (4) and (title) and (a) are amended to read:

15 ATCP 34.16 (3) HAZARDOUS WASTE CONTRACTOR FOR TEMPORARY COLLECTION ~~EVENT~~. For a
16 temporary collection ~~event~~, a grant recipient shall contract under sub. (2) with the hazardous waste
17 contractor ~~who~~ that manages the state of Wisconsin's hazardous wastes under the cooperative state
18 purchasing agreement.

19 (4) HAZARDOUS WASTE CONTRACTOR FOR PERMANENT OR CONTINUOUS COLLECTION ~~EVENT~~. (a)
20 For a permanent or continuous collection ~~event~~, a grant recipient shall contract under sub. (2) with a
21 hazardous waste contractor that is qualified to do ~~all of~~ the following:

22 **SECTION 34.** ATCP 34.16 (4) 9. is created to read:

23 ATCP 34.16 (4) 9. Comply with applicable state and federal laws relating to the segregation,
24 packing, and transportation of unwanted prescription drugs, including controlled substances, if unwanted
25 prescription drugs are collected.

1 **SECTION 35.** ATCP 34.18 (1) (intro.) and (a) to (d) are amended to read:

2 ATCP 34.18 (1) FINAL REPORT. A grant recipient shall provide the department with a final
3 report on a clean sweep project within 60 days after the grant recipient completes the project. The
4 department may grant an extension, not to exceed 45 days, if requested within the 60-day period. The
5 final report shall include all of the following:

6 (a) The number of persons who delivered chemical waste or if known, unwanted prescription
7 drugs, for collection.

8 (b) The types and amounts of chemical wastes and unwanted prescription drugs collected.

9 (c) The total cost of the project. The report shall include supporting documentation, including
10 invoices for the transportation and disposal of chemical waste and unwanted prescription drugs.

11 (d) An evaluation of the project, including the need for future clean sweeps projects, if any, and
12 the appropriate timing of those projects, an identification of problems and possible solutions, the public
13 information program conducted in connection with the project, and suggestions on how to collect
14 chemical waste or unwanted prescription drugs in the future.

15 **SECTION 36.** ACTP 34.18 (1) (e) is repealed.

16 **SECTION 37.** ATCP 34.18 (1) (f) is amended to read:

17 ATCP 34.18 (1) (f) An estimate of future chemical waste or unwanted prescription drug
18 collection needs. ~~The report shall estimate future needs based, in part, on collections at the completed~~
19 ~~clean sweep project. The report shall discuss the need for future clean sweep projects, if any, and the~~
20 ~~appropriate timing of those projects. It shall also include suggestions on how to collect chemical waste~~
21 ~~in the future.~~

22 **SECTION 38.** ATCP 34.18 (2) (a) and (b) are amended to read:

1 ATCP 34.18 (2) (a) Except as provided in par. (b), the department may not distribute any grant
2 funds under this chapter until the ~~applicant~~ recipient completes the clean sweep project and submits its
3 final report to the department under sub. (1). The department shall pay the full grant award, less any
4 amount withheld under s. ATCP 34.20 (1), within 60 days after the department accepts the ~~applicant's~~
5 recipient's final report under sub. (1).

6 (b) A grant contract for a permanent or continuous collection-~~event~~ may provide for partial
7 payments during the ~~continuous-collection-event~~ collection not to exceed two payments. The grant
8 recipients shall file an interim report prior to each partial payment. The interim reports shall contain
9 information, required by the grant contract, including interim information of the type required in sub.
10 (1).

11 **SECTION 39. INITIAL APPLICABILITY.** This rule first applies to applications submitted to obtain
12 2016 clean sweep grants.

13 **SECTION 40. EFFECTIVE DATE.** This rule takes effect on the first day of the month following
14 publication in the Wisconsin administrative register, as provided under s. 227.22 (2) (intro.).
15

1
2 Dated this _____ day of _____, 2015

3 WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

4 By: _____
Ben Brancel
Secretary