

# Clearinghouse Rule 99-087

STATE OF WISCONSIN

)

Clearinghouse Rule

) ss.

No. 99-87

DEPARTMENT OF AGRICULTURE

)

TRADE AND CONSUMER PROTECTION

)

## CERTIFICATION:

I, Ben Brancel, Secretary of the Wisconsin Department of Agriculture, Trade and Consumer Protection, and custodian of the department's official records, hereby certify that the attached rulemaking order relating to the chemical and container collection program was signed and adopted by the department on February 11, 2000.

I further certify that I have compared the attached copy to the original on file in the department, and that the attached copy is a complete and accurate copy of the original.

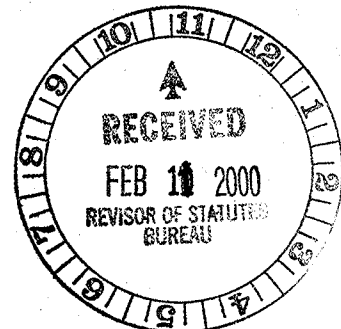
Signed and sealed this 11<sup>th</sup> day of February, 2000.

STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE,  
TRADE AND CONSUMER PROTECTION

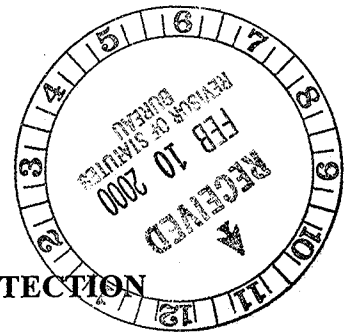
By

Ben Brancel

Ben Brancel, Secretary



4-1-00



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

- 1 The state of Wisconsin department of agriculture, trade and consumer protection adopts  
2 the order to repeal ATCP 34.08(1)(note) and (2)(note); to amend ATCP 34.08(1); to  
3 repeal and recreate ATCP 34.02, 34.03, 34.04(2), (3) and (3)(note), 34.05, 34.06(2) and  
4 (3), 34.08(2) and 34.09; and to create ATCP 34.04(2)(note), 34.07 and 34.08(3), (4) and  
5 (4)(note); relating to the chemical and container collection program.

---

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

Statutory Authority: Section 93.55, Stats.

Statutes Interpreted: Section 93.55, Stats.

This rule modifies current rules related to the department's agricultural "clean sweep" program. The agricultural "clean sweep" program is designed to collect and safely dispose of unused agricultural chemicals and containers that might otherwise pose a threat to public health and the environment. Current agricultural "clean sweep" rules are contained in ch. ATCP 34, Wis. Adm. Code.

Under the agricultural "clean sweep" program, the department awards grants to counties that sponsor agricultural "clean sweep" events, including temporary and permanent events. Counties contract with licensed hazardous waste contractors to collect, pack, transport and dispose of collected materials.

### **Grant Recipients**

This rule reiterates (per s. 93.55, Stats.) that the department may award "clean sweep" grants only to counties (or to an association of counties formed to conduct a "clean sweep" project). But under this rule, a county (or association of counties) may enter into an agreement with another person or entity to administer a "clean sweep" grant on behalf of the county (or association).

### **County Contribution**

Under this rule, a county must contribute at least \$3,000 to each county project for which a “clean sweep” grant is awarded. The department may require counties to contribute a larger amount specified in the department’s announcement soliciting grant applications. Counties that jointly sponsor a “clean sweep” project may prorate the required contribution among them. A county’s contribution for a “permanent collection event” may include county staff, building rent, facilities and equipment provided for waste chemical collection and handling at that event.

### **Temporary and Permanent Collection Events**

This rule clarifies that the department may fund “temporary collection events” (not more than 7 days at a temporary collection site) or “permanent collection events” (more than 7 days at a permanent hazardous waste collection facility).

### **Grant Purposes**

This rule reiterates that agricultural “clean sweep” projects are intended to collect waste agricultural chemicals from farmers. However, this rule authorizes the department to fund the collection of waste agricultural pesticides from “very small quantity generators” (VSQG’s) who are not farmers. This might include, for example, hardware stores, farm supply stores, cooperatives, municipalities and commercial pesticide applicators who accumulate no more than 220 pounds of waste pesticides per month.

### **Use of Grant Funds**

Under this rule, as under the current rules, a “clean sweep” grant may be used to reimburse a county’s direct costs to collect and dispose of waste agricultural chemicals and containers, including the cost to hire a licensed hazardous waste contractor. This rule clarifies that grant funds may also be used to reimburse a county’s direct costs for any of the following:

- Equipment rentals, supplies and services used to operate the collection site and handle collected chemicals.
- County staff to receive and pack waste chemicals at a permanent collection event.
- Local educational and promotional activities related to the “clean sweep” project.

This rule clarifies that an agricultural “clean sweep” grant may not fund the disposal of any of the following:

- Oil that is not contaminated with chemicals.
- Batteries.

- Contaminated soil or debris.
- Fluorescent tubes.
- Triple-rinsed plastic pesticide containers (since those containers may be recycled through the Wisconsin fertilizer and chemical association's recycling program).
- Materials that may be readily handled under other waste disposal or recycling programs.
- Chemicals from persons other than farmers (except agricultural pesticides received from VSQG's according to this rule).
- Chemicals for which there are no federally approved or state-approved disposal methods. (This rule, like the current rule, spells out procedures which the county and its contractor must follow when they encounter these materials.)

### **Collecting Waste Agricultural Pesticides from Nonfarmers**

Under this rule, the department will pay no more than 50% of a county's cost to collect and dispose of waste agricultural pesticides from VSQG's who are not farmers. The department will specify the reimbursement rate in its announcement soliciting county grant applications. The department may authorize a higher reimbursement rate in certain special cases. A county may charge the remaining costs to participating VSQG's.

VSQG's who are not farmers must pre-register to participate in an agricultural "clean sweep" project. A county must report the amounts and kinds of waste agricultural pesticides collected from VSQG's, the county's costs to collect and dispose of those waste pesticides, and the payments received from participating VSQG's.

### **County May Not Charge Participating Farmers**

This rule prohibits a county from charging a farmer for the first 200 pounds of agricultural chemicals collected from that farmer. A county may charge fees for amounts over 200 pounds if the department approves the fees. Fees may depend, in part, on the amount of "clean sweep" grant funds and county funds committed to the project.

### **Hazardous Waste Contractors**

Under current rules, a county receiving an agricultural "clean sweep" grant must contract with a licensed hazardous waste contractor to receive, pack, transport and dispose of hazardous wastes collected during the county project. Under the current rules, the department must approve the hazardous waste contractor and assist the county in

preparing the contract. Under the current rules, a copy of the contract must also be incorporated as part of the department's grant contract with the county.

This rule modifies the current rules related to hazardous waste contractors. Under this rule:

- A county receiving an agricultural "clean sweep" grant must contract with a licensed hazardous waste contractor to receive, pack, transport and dispose of hazardous wastes collected during the county project.
- A county holding a temporary "clean sweep" event must use the State of Wisconsin's hazardous waste contractor.
- A county holding a permanent "clean sweep" event may use the state's hazardous waste contractor, or may contract with another hazardous waste contractor who meets the qualifications under this rule.
- The department's grant contract with the county must include a copy of the county's contract with the hazardous waste contractor. The contract must include a schedule of the contractor's charges to receive, transport and dispose of relevant categories of chemicals.
- The contractor must attend training provided by the department, and must comply with applicable requirements under this rule. The county must select the contractor by a specified date so the department can train the contractor before the "clean sweep" project begins. Under this rule, a hazardous waste contractor must be capable of all the following:
  - \* Assisting counties and "clean sweep" participants to identify and segregate hazardous and solid wastes.
  - \* Providing essential waste handling services including drum packing, testing for unknown chemicals, containing loose chemicals, and approving cylinders for disposal.
  - \* Collecting, packing, and transporting poison-solids, poison-liquids and poison-flammables to waste management sites licensed by federal and state governments.

- \* Providing waste collection and disposal services for mercury-bearing and dioxin-bearing chemicals, acids, bases, and low-pressure gas cylinders and canisters, unless there are no federally-approved or state approved disposal options available.
- \* Properly handling chemicals for which no federally approved or state approved disposal options are available.
- \* Collecting and reporting information related to banned and target chemicals.
- \* Administering registration, recordkeeping and reporting requirements related to VSQGs who are not farmers.
- \* Meeting other requirements specified by the department in its announcement soliciting county grant applications.

This rule does not require a county holding a permanent “clean sweep” event to select a hazardous waste contractor approved by the department. But the department may require the county to submit proof that the county’s hazardous waste contractor complies with this rule. The department may disapprove a hazardous waste contractor who does not meet applicable requirements under this rule. The state’s hazardous waste contractor is an approved contractor for purposes of this rule.

### **Grant Applications and Awards**

This rule clarifies the standards and procedures which the department uses to invite county grant applications, establish grant conditions, evaluate grant applications, and award “clean sweep” grants to counties. Like the current rule, this rule requires the department to enter into a grant contract with each county receiving a “clean sweep” grant, and spells out the required contents of that contract.

### **Reports and Payments**

Like the current rule, this rule requires a county to file a final report with the department before the department pays any grant funds to the county. The county must file the report within 90 days after the “clean sweep” project is completed, and must include relevant information about the project. This rule authorizes the department to make partial payments for “permanent collection events” while those events are ongoing. A county must file an interim report prior to each partial payment.

1           **ATCP 34.02 Definitions.** In this chapter:

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

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

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

9           (4) “County” means any of the following:

10          (a) A single county.

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

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

15          (a) Waste chemicals from agricultural producers.

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

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

20          (7) “Hazardous waste” has the meaning given in s. NR 600.03(98).

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

1 (9) "Permanent collection event" means a county project conducted for more than  
2 7 days at a permanent hazardous waste collection facility regulated by the Wisconsin  
3 department of natural resources.

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

5 (11) "Resource conservation and recovery act" has the meaning specified in s.  
6 291.01, Stats.

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

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

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

14  
15 **SECTION 2.** ATCP 34.03 is repealed and recreated to read:

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

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

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

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



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

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

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

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

9 (a) Oil that is not contaminated with chemicals.

10 (b) Batteries.

11 (c) Contaminated soil or debris.

12 (d) Fluorescent tubes.

13 (e) Triple-rinsed plastic pesticide containers.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1           **NOTE:** Participation in a county project does not relieve any person of the duty  
2                           to comply with applicable laws, or indemnify the person for any liability  
3                           to which the person is subject.  
4

5           **SECTION 3.** ATCP 34.04(2) is repealed and recreated to read:

6           ATCP 34.04(2) ANNOUNCEMENT SOLICITING GRANT APPLICATIONS. The  
7           department shall issue a written announcement soliciting grant applications from  
8           counties. An announcement shall specify the general terms and conditions for grant  
9           awards, including all the following:

- 10           (a) The total amount of grant funds available for distribution to grant applicants.
- 11           (b) The purposes for which grant funds may be used.
- 12           (c) The percentage rate, if any, at which the department will reimburse a county's  
13           cost to collect and dispose of waste agricultural pesticides received from very small  
14           quantity generators who are not agricultural producers.
- 15           **NOTE:** See s. ATCP 34.03(4).
- 16           (d) The minimum conditions a county must meet, including the minimum county  
17           funding contribution required under s. ATCP 34.03(5).
- 18           (e) Grant application deadlines and requirements.
- 19           (f) The deadline by which a county receiving a grant award must select a  
20           hazardous waste contractor under s. ATCP 34.08(2).
- 21           (g) Other grant application terms and conditions which the department deems  
22           appropriate.

23           **SECTION 4.** ATCP 34.04(2)(note) is created to read:

24           **NOTE:** Among the other grant terms and conditions specified under sub. (2), the  
25           department may specify grant terms and conditions that are reasonably  
26           designed to advance the department's statewide chemical waste collection

1 goals, and facilitate statewide administration of the chemical waste  
2 collection program.

3  
4 **SECTION 5.** ATCP 34.04(3) and (note) are repealed and recreated to read:

5 ATCP 34.04(3) APPLICATION CONTENTS. A grant application under sub. (1) shall  
6 describe all the following:

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

12 (b) The proposed collection locations.

13 (c) The proposed dates and times of collection.

14 (d) The proposed collection facilities and procedures. The department may  
15 review and inspect collection facilities and procedures from the standpoint of safety,  
16 public access, environmental protection and inclement weather protection. The  
17 department may disapprove unsuitable facilities and procedures.

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

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

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

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

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

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

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

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

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

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

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

26  
27 **SECTION 6.** ATCP 34.05 is repealed and recreated to read:

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

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

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

9           (3) The cost of the project.

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

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

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

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

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

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

19          **SECTION 7.** ATCP 34.06(2) and (3) are repealed and recreated to read:

20          **ATCP 34.06(2) REQUIRED CONTENTS.** A contract under sub. (1) shall include all  
21 the following:

22          (a) The amount of the grant award.

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

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

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

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

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

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

17 (h) Other contract terms specified by the department.

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

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

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

1           **SECTION 8.** ATCP 34.07 is created to read:

2           **ATCP 34.07 Waste agricultural pesticides from nonfarmers.** A county  
3 project may collect waste agricultural pesticides and containers from very small quantity  
4 generators who are not agricultural producers, provided that all the following apply:

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

7           (a) The registrant's name and address.

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

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

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

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

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

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

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

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

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



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

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

4 **SECTION 9.** ATCP 34.08(1) is amended to read:

5 ATCP 34.08(1) COUNTY RESPONSIBLE AS WASTE GENERATOR. Pursuant to s.  
6 93.55(2m), Stats., a county receiving a grant under s. ATCP 34.03 shall assume  
7 responsibility as hazardous waste generator, under the federal resource conservation and  
8 recovery act, for hazardous wastes accepted by the county in connection with the county  
9 project. As a hazardous waste generator, the county shall comply with applicable  
10 requirements under s. 291.21, Stats., and the resource conservation and recovery act. ~~The~~  
11 ~~department shall assist the county in completing required hazardous waste reports and~~  
12 ~~documents, and in complying with applicable requirements.~~

13 **SECTION 10.** ATCP 34.08(1)(note) is repealed.

14 **SECTION 11.** ATCP 34.08(2) is repealed and recreated to read:

15 ATCP 34.08(2) HAZARDOUS WASTE CONTRACTOR; GENERAL. A county receiving  
16 a grant under s. ATCP 34.03 shall contract with a hazardous waste contractor to receive,  
17 pack, transport and dispose of hazardous wastes collected during the county project. The  
18 hazardous waste contractor shall attend training provided by the department, and shall  
19 comply with applicable requirements under this chapter. The county shall select the  
20 contractor by a date specified in the department's announcement under s. ATCP 34.04(2)  
21 so the department can provide training to the selected contractor.

22 **SECTION 12.** ATCP 34.08(2)(note) is repealed.

23 **SECTION 13.** ATCP 34.08(3), (4) and (4)(note) are created to read:

1           ATCP 34.08(3) HAZARDOUS WASTE CONTRACTOR FOR TEMPORARY COLLECTION  
2 EVENT. For a temporary collection event, a county shall contract under sub. (2) with the  
3 hazardous waste contractor who manages the state of Wisconsin's hazardous wastes  
4 under the cooperative state purchasing agreement.

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

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

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

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

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

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

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

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

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

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

11           **NOTE:** The contractor who manages the state of Wisconsin's hazardous wastes  
12                           under the cooperative state purchasing agreement meets applicable  
13                           requirements under sub. (4)(a).  
14

15           **SECTION 14.** ATCP 34.09 is repealed and recreated to read:

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

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

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

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

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

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

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

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

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

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

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

Dated this 11<sup>th</sup> day of Feb, 2000.

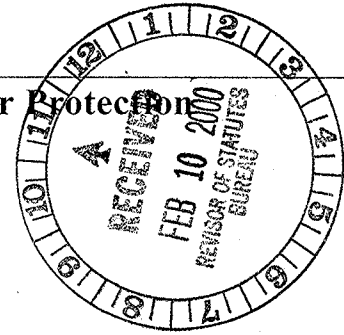
STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE,  
TRADE AND CONSUMER PROTECTION

By Ben Brancel  
Ben Brancel, Secretary



State of Wisconsin  
Tommy G. Thompson, Governor

Department of Agriculture, Trade and Consumer Protection  
Ben Brancel, Secretary



Date: February 11, 2000  
To: Gary Poulson-Revisor of Statutes Office  
From: Ben Brancel, Secretary *Ben Brancel*  
Subject: **Clearinghouse Rule No. 99-87, Chapter ATCP 34  
Relating to the Chemical Collection and Container Collection  
Program**

The Department of Agriculture, Trade, and Consumer Protection hereby submits the following information with the above rule.

### Final Regulatory Flexibility Analysis

#### Overview

The proposed rule updates ATCP 34, the Agricultural Clean Sweep Program rule. Ag Clean Sweep is an annual, competitive grants program for Wisconsin counties, allowing them to collect unwanted pesticides and chemical wastes from the agricultural community and dispose of them at public collection sites. Agricultural chemicals from active and abandoned farms have remained the primary program target over the years, and farmers use the program largely free-of-charge.

Beginning in 1996, the Department of Agriculture, Trade, and Consumer Protection began to offer collection services to businesses and municipalities that handle or use agricultural pesticides. This change came about because of changes in state rules for very small quantity generators (VSQGs) \* of hazardous wastes. Participants received up to a 50% disposal subsidy from the department for the disposal of unwanted agricultural pesticides. These same rules allowed counties to create permanent or season-long collection facilities for the collection of hazardous wastes. Several counties have developed permanent facilities and have received grants from the department.

---

\*Very small quantity generator (VSQG) is a term used within the federal Resource and Conservation Recovery Act (RCRA) to define a group of businesses or entities that generate no more than 220 pounds of hazardous wastes per month and who accumulate no more than 2,205 pounds per year.

The proposed rule will have positive impacts upon businesses. It includes provisions which allow VSQGs access to public collection sites and allows national and regional hazardous waste disposal contractors to serve counties receiving Ag Clean Sweep Program grants.

#### Businesses Affected

The proposed rule will make it easier for a wide variety of businesses and public entities, including schools, to use the Agricultural Clean Sweep Program. During the past two years, only businesses that were agricultural in nature were encouraged to participate. These businesses included lawn care companies, structural and aerial applicators, golf courses, and chemical co-ops. The new rule extends services to any business or municipal entity that uses or holds non-household pesticides for disposal. . . providing VSQG self-certification requirements are met. This means that hardware stores, department stores, marinas, parks, cemeteries, and construction companies along with schools and local units of government would qualify for service and could receive up to a 50% pesticide disposal subsidy from the department. This change could quadruple the number of businesses eligible for Agricultural Clean Sweep disposal services.

Even though the proposed rule extends services to a range of new businesses, it must also be kept in mind that farmers, the program's main audience, will benefit too. Because counties with permanent or season-long collection facilities can receive ATCP 34 grants, farmers in these counties will be able to dispose of their unwanted chemicals throughout the year thereby reducing environmental and public health risks.

Also affected by the proposed rule are national and regional hazardous waste contractors who operate federally and state-approved disposal facilities. These companies could compete for contracts from counties who have been awarded Ag Clean Sweep Program grants by the department to conduct permanent collection events. It is estimated that up to ten contractors could seek permanent collection contracts from counties. These contractors would, however, be precluded from competing for grants from temporary collection events since counties with these events are required to use the State of Wisconsin's hazardous waste contractor.

#### Operating Procedures Improved for Businesses

The proposed rule streamlines and simplifies procedures for business participation. To receive service at clean sweep collection sites, holders of unwanted agricultural pesticides must: 1) pre-register with the collection site or its hazardous waste contractor, 2) self-certify their Very Small Quantity Generator (VSQG) status, and 3) complete a qualification form for the department's 50% pesticide subsidy if they want financial assistance. VSQG self-certification is a Department of Natural Resources requirement under NR 610.

Poor knowledge of hazardous waste risks and federal/state disposal regulations have been two obstacles preventing businesses from making good decisions on hazardous waste

management. Recognizing these limitations, Ag Clean Sweep encourages interested persons to directly contact waste contractors on their disposal issues, (e.g. "Do I have hazardous wastes?", "Am I a VSQG?", "Is there a better or cheaper disposal option?"). Pre-registration begins the process, allowing waste haulers to initially see the chemical inventory. All correspondence is conducted via fax or phone. Once businesses agree to use Ag Clean Sweep, they are assigned a collection location and told to bring a check for the predetermined amount. Businesses can readily meet program disposal requirements with existing staff.

Federal and state hazardous waste reporting requirements have been incorporated into Ag Clean Sweep procedures. Because long term liability under the Resource Conservation and Recovery Act (RCRA) and Comprehensive Environmental Response Compensation and Liability Act (CERCLA or "SuperFund") cannot be waived by public program participation, businesses, with the exception of farmers, remain responsible for their wastes and appropriate records must be prepared. This reporting begins with the initial chemical inventory and ends with waste disposal receipts provided by the waste hauler. While this proposed rule incorporates federal and state reporting requirements, it does not impose any new requirements.

To support business disposal services, the department established working relationships with nine agricultural associations several years ago, (e.g.. Wisconsin Federation of Co-ops, Wisconsin Fertilizer and Chemical Association). These associations advertise clean sweep services to members in newsletters and serve as references for program participation. The proposed rule will allow the department to create partnerships with a host of new organizations, (e.g. hardware, recreational, real estate).

### Hazardous Waste Contractors

The proposed rule allows counties who have been awarded ATCP 34 grants for permanent collection events to select their own hazardous waste contractor, providing this contractor can meet Ag Clean Sweep performance standards, is selected by the annually established date, and is otherwise capable of meeting the department's statewide hazardous waste goals. It is expected that numerous local, regional, and national contractors will seek contracts from counties. The rule requires counties conducting temporary collection events to contract with the hazardous waste contractor selected under the Department of Administration's (DOA's) cooperative purchasing process.

The impact of this rule on hazardous waste contractors will generally remain unchanged for counties receiving grants for permanent collection events. It is expected that the proposed rule will facilitate better coordination and communication for contractors working with neighboring counties out of a regional, permanent collection facility. The rule will have a negative effect on hazardous waste contractors excluded from contracting with counties conducting temporary collection events who will be required to contract with the DOA's, hazardous waste contractor.



### **Comments from Legislative Committees**

On October 18, 1999 the department transmitted the above rule for legislative committee review. The rule was referred to the Senate Committee on Agriculture, Environmental Resources, and Campaign Finance Reform on October 20, 1999 and the Assembly Committee on Agriculture on October 28, 1999. Neither the Senate Committee on Agriculture, Environmental Resources, and Campaign Finance Reform or the Assembly Committee on Agriculture took any action on the rule during their review period.