

CR 91-158

STATE OF WISCONSIN )  
 ) SS.  
DEPARTMENT OF AGRICULTURE, )  
TRADE & CONSUMER PROTECTION )

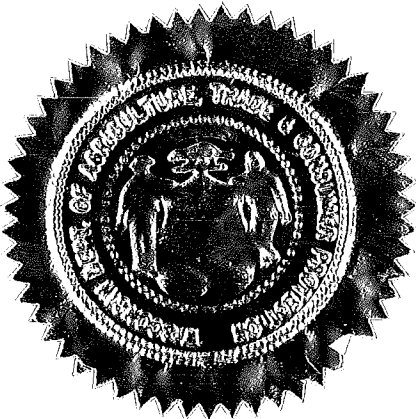
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TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Nicholas J. Neher, Administrator, Agricultural Resource Management Division, State of Wisconsin, Department of Agriculture, Trade and Consumer Protection, and custodian of the official records of said Division, do hereby certify that the annexed order amending rules relating to chemical and container collection grant program, Chapter Ag 164, Wis. Adm. Code, was duly approved and adopted by the Department on June 17, 1992.

I further certify that said copy has been compared by me with the original on file in the Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the Department offices in the city of Madison, this 17th day of June, 1992.



*Nicholas J. Neher*  
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Nicholas J. Neher, Administrator  
Agricultural Resource Management Division

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

The Wisconsin department of agriculture, trade and consumer protection adopts this order to create ch. Ag 164, relating to the department's chemical and container collection grant program.

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

Statutory authority: ss. 93.07 (1), Stats.

Statute interpreted: s. 93.55, Stats.

Grant program

In the biennial budget act, 1991 Wis. Act 39, the legislature authorized the department to continue the agricultural "clean sweep" program created under s. 93.55, Stats. Under this program, the department issues grants to participating counties to establish programs for the collection and disposal of waste agricultural chemicals and chemical containers. The legislature appropriated \$567,700 for this program in FY 1991-92 and \$560,400 in FY 1992-93.

This rule spells out the procedures which the department will use in distributing "clean sweep" grants to the counties. Under the rule, the department may provide a grant to fund all or part of a county "clean sweep" project. Funding is limited to counties, and is not available to cities, villages or towns.

Grant funds may be used to reimburse a county's direct costs related to the collection and disposal of waste agricultural chemicals and chemical containers, including the cost of hiring a licensed hazardous waste disposal operator to receive, transport and dispose of hazardous wastes. Funds may not be used to collect or dispose of waste oil, batteries or chemicals that may be readily handled under other waste disposal programs. Nor may funds be used to collect or dispose of the pesticides 2,4,5-T or silvex until a federally approved disposal program is available for those pesticides.

Grant applications

In order to obtain a "clean sweep" grant, a county must submit a written grant application to the department. Two or more counties may submit a joint application for funding to conduct a cooperative "clean sweep" project. The department may issue written announcements soliciting grant applications from the counties. An announcement may specify grant size limits and other basic grant terms and conditions. An announcement may also establish application deadlines and requirements.

A "clean sweep" grant application must describe all of the following:

- (a) The purpose and scope of the "clean sweep" project, including the targeted area and agricultural population, the anticipated level of public participation, and the types and amounts of agricultural chemicals and chemical containers which the county expects to collect. The application must indicate how the county arrived at its waste collection estimate. The department will assist county applicants, as necessary, in making waste collection estimates for a "clean sweep" project.
- (b) The collection location, the date and time of collection, the facilities available at the collection site, and the collection procedures to be used.
- (c) Pertinent limitations or charges which the county will impose in connection with the "clean sweep" project. A county may limit the types or amounts of waste collected. To help defray collection costs, a county may also impose a charge on persons who deliver large amounts of waste to the collection site.
- (d) The tasks which the county or its agents will perform as part of the "clean sweep" project.
- (e) The county's plans for the receipt, transportation and disposal of hazardous wastes received in connection with the "clean sweep" project.
- (f) The county's plans for recycling or disposing of triple-rinsed chemical containers and other collected materials which do not constitute hazardous wastes.
- (g) The public information program which the county will undertake in connection with the "clean sweep" project. The public information program must advertise the "clean sweep" project and provide information on the safe transportation and disposal of agricultural chemicals and chemical containers.
- (h) The proposed budget for the project.
- (i) The amount of grant funding requested from the department, and the purposes for which the grant funds will be used.
- (j) The amount of funding or other resources which the county agrees to provide for the project, and the purposes for which the county funds and resources will be used.
- (k) The county lead agency and program coordinator for the project, and the county agencies that will be involved in implementing the project.

#### Evaluating grant applications

Under the rule, the department will evaluate grant applications according to the following criteria:

- (a) The potential benefits of the county "clean sweep" project, including benefits for public health, safety and the environment.

- (b) The scope of the project, including the size of the area and population covered, the types of agriculture affected, the quantity of waste chemicals and containers to be collected, and the likely extent of public participation.
- (c) The cost of the "clean sweep" project, and the projected ratio of benefits to costs.
- (d) County funding, resource and staff commitments to the project.
- (e) The adequacy of the county's collection plans and facilities.
- (f) The degree to which the county's collection plans and facilities minimize potential environmental and safety risks.
- (g) The scope and quality of the public information program related to the project.
- (h) The overall quality of the county application, and the level of preparation, expertise and commitment demonstrated by the application.

#### Grant contracts

If the department awards a "clean sweep" grant to a county, the department and the county must enter into a written contract which specifies the terms and conditions of the grant. No funding commitment is final until the contract is signed by the department secretary and the county. The contract may incorporate, by reference, the county grant proposal. The contract shall include:

- (a) A specific description of the "clean sweep" project, and the tasks to be performed by the county or its agents under the project.
- (b) The amount of the grant award, and the purposes for which the grant award is to be used.
- (c) The county's commitment to assume responsibility as hazardous waste generator, under the federal resource conservation and recovery act (RCRA), for hazardous wastes accepted by the county in connection with the "clean sweep" project.
- (d) A copy of the county's contract with a licensed hazardous waste disposal operator, approved by the department, who will be responsible for receiving, transporting and disposing of hazardous waste materials received in connection with the "clean sweep" project.
- (e) A description of the public information program which the county will undertake in connection with the "clean sweep" project.
- (f) A county's commitment to provide the department with a final report on the "clean sweep" project. The contract may also provide for interim reports as necessary.

Every grant award and grant contract is contingent upon the availability of funding. If available moneys are not adequate to fund all of the grants awarded, the department may cancel one or more grants but may not prorate grant awards. If the department cancels one or more grants, it shall cancel the grants in the reverse order in which they were awarded.

#### Hazardous Waste

Pursuant to s. 93.55(2), Stats., a county receiving a "clean sweep" grant must assume responsibility as hazardous waste generator, under the federal resource conservation and

recovery act (RCRA), for hazardous wastes received by the county in connection with the "clean sweep" project. The department will assist the county in complying with RCRA requirements.

The rule does not expand or limit the application of state or federal hazardous waste laws administered by the department of natural resources. It does not authorize or require a county to serve as a RCRA enforcement agency, nor does it require a county to indemnify other persons if those persons violate state or federal law.

A county receiving a "clean sweep" grant must contract with a licensed hazardous waste disposal operator, approved by the department, to receive, transport and dispose of the hazardous wastes collected in the "clean sweep" project. The department will assist the county in preparing the hazardous waste disposal contract.

#### Final report and payment

If the department contracts to provide a "clean sweep" grant to a county, the county must provide the department with a final report on the "clean sweep" project within 60 days after the project is completed. The final report must include:

- (a) The number of persons who delivered agricultural chemicals and containers to the collection site.
- (b) The types and amounts of chemicals received at the collection site. Hazardous wastes shall be separately itemized.
- (c) The total cost of the project.
- (d) An evaluation of the project, including an identification of problems and possible solutions.
- (e) An evaluation of the public information program conducted in connection with the project.
- (f) An estimate of the amount of chemicals and containers still to be collected, and suggestions for how those chemicals and containers might be collected in the future.

The department may not distribute any "clean sweep" grant funds to a county until the county completes the "clean sweep" project and submits its final report. The department shall pay the full grant award, less any amounts withheld because of a county breach of the grant contract, within 60 days after the department accepts the county's final report.

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SECTION 1. Chapter Ag 164 is created to read:

#### **Chapter Ag 164**

**CHEMICAL AND CONTAINER COLLECTION PROGRAM**

Ag 164.01 **PURPOSE.** This chapter establishes procedural requirements for the agricultural chemical and container collection grant program created under s. 93.55, Stats.

NOTE: Funds for the agricultural chemical and container collection grant program under s. 93.55, Stats., are appropriated under s. 20.115(7)(v), Stats. Grants are subject to appropriation limits.

Ag 164.02 **DEFINITIONS.** In this chapter:

- (1) "Chemicals" means pesticides or other chemicals that are used for agricultural purposes. "Chemicals" includes chemical containers.
- (2) "County project" means a county project for the collection and disposal of waste chemicals under s. 93.55, Stats.
- (3) "Department" means the state of Wisconsin department of agriculture, trade and consumer protection.
- (4) "Hazardous waste" has the meaning specified in s. NR 605.04.
- (5) "Pesticide" has the meaning specified in s. 94.67(25), Stats.
- (6) "Resource conservation and recovery act" has the meaning specified in s. 144.61(9m), Stats.

Ag 164.03 **GRANTS TO COUNTIES.** (1) **GENERAL.** The department may provide grants to counties to fund county projects for the collection and disposal of waste chemicals. A grant may be used to fund all or part of a county project. Funding is limited to counties, and is not available to cities, villages or towns.

(2) **PERMITTED USES.** A grant under sub. (1) may reimburse a county's direct costs related to the collection and disposal of waste chemicals, including the cost of hiring a

licensed hazardous waste disposal operator to receive, transport and dispose of hazardous wastes.

(3) **PROHIBITED USES.** A grant under sub. (1) may not be used to collect or dispose of any of the following:

(a) Oil, batteries or other wastes that may be readily handled under other waste disposal programs.

(b) The pesticides 2,4,5-T or silvex until a disposal program for those pesticides is approved by the United States environmental protection agency. If any person presents either of these pesticides for collection, the collector shall do all of the following:

1. Repackage the pesticide securely for the person who delivered the pesticide.
2. Record the name and address of the person who delivered the pesticide.
3. Inform the delivering person that the collector or the department will contact that person if and when a proper disposal method becomes available.

Ag 164.04 **GRANT APPLICATIONS.** (1) **APPLICATION REQUIRED.** In order to obtain a grant under s. Ag 164.03, a county shall submit a written grant application to the department. A grant application shall comply with sub. (3). Two or more counties may submit a joint application for funding to conduct a cooperative project.

(2) **ANNOUNCEMENT SOLICITING GRANT APPLICATIONS.** The department may issue written announcements soliciting grant applications from the counties. An announcement may specify grant terms and conditions and the amount of grant funds available. An announcement may also establish grant application deadlines and requirements.

(3) APPLICATION CONTENTS. A grant application under sub. (1) shall include all of the following:

(a) The purpose and scope of the proposed county project, including the targeted area and agricultural population, the anticipated level of public participation, and the types and amounts of waste chemicals that the county expects to collect. The application shall indicate how the county arrived at its waste collection estimate. The department shall assist county applicants, as necessary, in estimating potential public participation and the potential types and amounts of waste chemicals to be collected.

(b) The collection location, the date and time of collection, the facilities available at the collection site, and the collection procedures to be used. A collection facility shall be of adequate size, and shall be well ventilated but protected from the elements.

(c) Pertinent limitations or charges which the county will impose in connection with the county project. A county may limit the types or amounts of waste chemicals collected under the project. In order to help defray the cost of collection, a county may also impose a charge on persons who deliver large amounts of waste chemicals to the collection site.

(d) The tasks which the county or its agents will perform as part of the county project.

(e) The county's plans for the receipt, transportation and disposal of hazardous wastes received in connection with the county project, subject to s. Ag 164.08.

(f) The county's plans for recycling or disposing of triple-rinsed pesticide containers and other collected materials which do not constitute hazardous wastes.

(g) The public information program which the county will undertake in connection



with the county project. The public information program shall advertise the county project to the target population. The public information program shall also provide the target population with information on the safe handling and disposal of chemicals, and the minimization of chemical waste.

(h) The proposed budget for the project.

(i) The amount of grant funding requested from the department, and the purposes for which the grant funds will be used.

(j) The amount of funding or other resources which the county agrees to provide for the project, and the purposes for which the county funds and resources will be used.

(k) The county lead agency and program coordinator for the project, and the county agencies that will be involved in implementing the project.

(l) Other information specified by the department in its announcement soliciting grant applications.

NOTE: A county is responsible for managing collected chemicals in compliance with applicable federal and state laws governing solid and hazardous waste management. This chapter does not expand or limit the application of state or federal hazardous waste laws administered by the department of natural resources. This chapter does not authorize or require a county to serve as an enforcement agency, nor does it require a county to indemnify other persons if those persons violate state or federal law.

Ag 164.05 EVALUATING GRANT APPLICATIONS. The department shall evaluate grant applications under s. Ag 164.04 according to the following criteria:

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

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

(3) The cost of the project, and the projected ratio of benefits to costs.

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

(5) The adequacy of the county's collection plans and facilities.

(6) The degree to which the county's collection plans and facilities minimize potential environmental and safety risks, and promote recycling.

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

(8) The scope and quality of the public information program related to the project.

(9) The overall quality of the county's application, and the level of preparation, expertise and commitment demonstrated by the application.

(10) Other criteria specified by the department in its announcement soliciting grant applications.

Ag 164.06 GRANT AWARD; CONTRACT. (1) GENERAL. If the department awards a grant to a county under s. Ag 164.03, the department and the county shall enter into a written contract which specifies the terms and conditions of the grant. No grant award is final until the contract is signed by the department secretary and the county. The contract may incorporate, by reference, all or part of the county grant proposal.

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

(a) A specific description of the county project, and the tasks which the county or its agents will perform under the project.

(b) The amount of the grant award, and the purposes for which the award is to be used.

(c) A commitment by the county to assume responsibility as hazardous waste generator, under s. Ag 164.08(1), for hazardous wastes received in connection with the county project.

(d) Pursuant to s. Ag 164.08(2), a copy of the county's contract with a licensed hazardous waste disposal operator who will receive, transport and dispose of hazardous wastes received in connection with the county project.

(e) A description of the public information program which the county will undertake in connection with the county project.

(f) The county's commitment to provide the department with a final report on the county project. The contract may also provide for interim reports which the department deems necessary.

(g) The county's responsibilities under s. Ag 164.03(3)(b).

(h) Other contract terms specified by the department.

(3) GRANTS CONTINGENT UPON FUNDING. Every grant award and grant contract is contingent upon the availability of funding. If available moneys are not adequate to fund all of the grants awarded, the department may cancel one or more grants but may not prorate available moneys between grants. If the department cancels one or more grants, it shall cancel the grants in the reverse order in which they were awarded.

Ag 164.08 HAZARDOUS WASTE. (1) COUNTY RESPONSIBLE AS WASTE GENERATOR. Pursuant to s. 93.55(2m), Stats., a county receiving a grant under s. Ag 164.03 shall assume responsibility as hazardous waste generator, under the federal resource conservation and recovery act, for hazardous wastes accepted by the county in connection with the county project. As a hazardous waste generator, the county shall comply with applicable requirements under s. 144.63, Stats., and the resource conservation and recovery act. The department shall assist the county in completing required hazardous waste reports and documents, and in complying with applicable requirements.

NOTE: A county is responsible for managing collected chemicals in compliance with applicable federal and state laws governing solid and hazardous waste management. This chapter does not expand or limit the application of state or federal hazardous waste laws administered by the department of natural resources. This chapter does not authorize or require a county to serve as an enforcement agency, nor does it require a county to indemnify other persons if those persons violate state or federal law.

(2) CONTRACT FOR DISPOSAL OF HAZARDOUS WASTE. A county receiving a grant under s. Ag 164.03 shall contract with a licensed hazardous waste disposal operator, approved by the department, to receive, transport and dispose of hazardous wastes received in connection with the county project. The contract shall be approved by the department and shall be incorporated as part of the department's grant contract with the county under s. Ag 164.06(2)(d). The department shall assist the county in preparing the contract under this subsection.

NOTE: The department will approve a waste disposal contractor under sub. (2) who has contracted with the state of Wisconsin for the disposal of the state's hazardous waste. Pertinent portions of the state contract may be incorporated by reference in the county contract under sub. (2).

Ag 164.09 FINAL REPORT AND PAYMENT. (1) FINAL REPORT. If the

department enters into a grant contract with a county under s. Ag 164.07, the county shall provide the department with a final report on the county project within 60 days after the project is completed. The final report shall include:

- (a) The number of persons who delivered chemicals to the collection site.
- (b) The types and amounts of chemicals received at the collection site. The types and amounts of hazardous waste materials shall be separately itemized.
- (c) The total cost of the project.
- (d) An evaluation of the project, including an identification of problems and possible solutions.
- (e) An evaluation of the public information program conducted in connection with the project.
- (f) An estimate of the types and amounts of chemicals still to be collected, and suggestions for how those chemicals might be collected in the future.

(2) PAYMENT. The department shall not distribute any grant funds to a county under this chapter until the county completes the county project and submits its final report to the department under sub. (1). The department shall pay the full grant award, less any amounts withheld because of the county's breach of the contract under s. Ag 164.07, within 60 days after the department accepts the county's final report under sub. (1).

SECTION 2. The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, as provided in s.

227.22 (2), Stats.

Dated this 17 day of June, 1992.

STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE,  
TRADE AND CONSUMER PROTECTION

By Nicholas J. Neher  
Nicholas J. Neher,  
Administrator, Agricultural Resource  
Management Division