

1999 DRAFTING REQUEST

Assembly Amendment (AA-AB133)

Received: 05/7/99

Received By: traderc

Wanted: Soon

Identical to LRB:

For: Legislative Fiscal Bureau

By/Representing: Schug

This file may be shown to any legislator: NO

Drafter: traderc

May Contact:

Alt. Drafters:

Subject: Agriculture - pesticides

Extra Copies:

Pre Topic:

LFB:.....Schug -

Topic:

Agricultural chemical cleanup funding

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	traderc 05/7/99	gilfokm 05/7/99		_____			
/1			martykr 05/10/99	_____	lrb_docadmin 05/10/99		

FE Sent For:

<END>

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1/?	traderc	1-5-7-99 KMG	dm5 16	H/S dm 10			

FE Sent For:

<END>

Tradewell, Becky

From: Schug, David
Sent: Friday, May 07, 1999 3:07 PM
To: Tradewell, Becky
Subject: RE: DATCP amendments

You are correct-- here goes...

Paper 210 Drainage Alt 5 and Alt 6

~~Paper 211 AgChem Alt 4~~

Paper 212 Pesticide Motion 216 and Motion 216

#213 Export Motion 444 The wording in the motion is misleading and is based on alternative 3, which discusses Federal revenues in addition to the amount provided in Chapter 20.115(3)(m). Thus, \$1 of marketing GPR 115(3)(a) should lapse for every \$1 in federal funding received above the amount of funding provided in 20.115(3)(m). (We are thinking of a two-line appropriation with GPR and PR-F listed as well as a net amount provided).

#214 price reform Alt 1

#215 nursery Alt 2c (includes technical changes in Alt 1), Motion 214, Motion 231 (I made an error in calculating Alt 2c. The position total change to base is really 1.00 and not 2.00 as written.

#216 weights Alt 2 and Alt 3, Motion 215 (add towns with cities and villages)

#217 LPG Alt 5

#218 grain Alt 2 and Alt 3

#219 web page Alt 2

#220 electronic Alt 3

#221 fair aids Alt 1

All summary items for which no papers were written were approved, except for #20, consumer protection assessment. That item is still outstanding.

Motion 661 also was approved.

I am faxing over the above motions. Besides the pending consumer protection assessment item, that should do it for DATCP.

David



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

May 4, 1999

Joint Committee on Finance

Paper #211

Agricultural Chemical Cleanup Program (DATCP)

[LFB 1999-01 Budget Summary: Page 96, #8]

CURRENT LAW

The agricultural chemical cleanup program (ACCP) SEG fund was split from the agrichemical management SEG fund in the 1997-99 budget bill. ACCP fund monies are used exclusively for grants for the cleanup of fertilizers and nonhousehold pesticides, including spills occurring at commercial fertilizer blending facilities, commercial pesticide application businesses and farm sites. Grants for up to 80% of cleanup costs have been provided 53% from the ACCP fund and 47% from GPR for the past several years. The ACCP fund receives revenues from industry fertilizer and pesticide license and tonnage surcharges. In the 1997-99 biennium only, ACCP investment earnings were deposited to the general fund. Base funding for grants is \$4.1 million annually (\$1,850,000 GPR and \$2,238,600 SEG).

GOVERNOR

Reduce GPR funding for the cleanup of agrichemical spills by \$1,171,300 in 1999-00 and \$350,000 in 2000-01. Under the bill, \$2,917,300 in 1999-2000 and \$3,738,600 in 2000-01 would be appropriated for ACCP grants (from GPR and SEG). Further, transfer \$500,000 from the ACCP fund to the general fund in each year of the 1999-01 biennium only.

DISCUSSION POINTS

Background

1. DATCP may order a person responsible for an agrichemical discharge to take corrective actions necessary to restore the environment to the extent practicable. If the responsible person takes corrective action to clean up the discharge, the person may apply to the Department for

reimbursement of eligible costs associated with the cleanup. Eligible applicants must demonstrate to the Department that the discharge was promptly reported, the applicant is in compliance with DNR and DATCP rules relating to agrichemical discharges and the costs incurred are reasonable and are not reimbursable from insurance or other sources.

2. DATCP becomes aware of contaminated sites through: (a) corrective action orders from DNR and DATCP as a result of identifying problem sites during investigations or monitoring activities; and (b) facilities reporting spills and taking corrective actions. DATCP works with DNR in determining which agency takes the lead on a cleanup and in determining a workplan for cleaning up the site. DNR generally leads the cleanup when the site involves something other than an agrichemical.

3. In general, two different types of sites exist: (a) newer spills, termed "acute spills," are generally low cost, narrow in scope, accidental in nature and can be cleaned up quickly; and (b) spills that require long-term soil or groundwater remediation generally resulting from a slow discharge over time, accumulated discharges that have occurred over time or large catastrophic spills. Some of the long-term cleanups, primarily the catastrophic spills, are covered by insurance, which reduces the reimbursements from the cleanup program.

4. DATCP regulates the cleanup of approximately 80 acute spills annually, few of which exceed the grant program's deductibles (\$3,000 for farms and small businesses and \$7,500 for larger commercial businesses). The Department estimates that 350 to 400 agrichemical facilities will have to conduct some type of corrective action involving long-term remediation. In addition, the Department believes that some farms, lawn care businesses, golf courses, greenhouses and smaller sites may also be contaminated and require cleanups, generally at lower costs. The Department is currently directing environmental cleanup (advising and reviewing cleanup workplans and costs) at 220 agrichemical sites, of which about 200 are at commercial agrichemical facilities. The Department anticipates initiating cleanup or overseeing the voluntary cleanup of approximately 45 long-term remediation sites annually over the next several years. Also, since 1994, DATCP has closed approximately 394 acute spill and 124 long-term investigation sites, most of which had limited contamination problems.

5. Through April, 1999, the program has paid over 181 reimbursement claims at 119 different sites totaling approximately \$6.5 million. Approximately 80% of these sites have not yet been closed. In addition, some closed cases have yet to seek reimbursement.

Revenues and Expenditures

6. Agricultural chemical cleanup reimbursements from SEG (the ACCP fund) have been lower than ACCP revenues. Table 1 portrays annual revenue and expenditure of SEG for agricultural chemical cleanup reimbursements. Prior to 1997-98, surcharges providing SEG revenues and corresponding cleanup reimbursement expenditures were made from the combined agricultural management fund.

TABLE 1**ACCP Fund under the Governor's Proposal**

	<u>1994-95</u>	<u>1995-96</u>	<u>1996-97</u>	<u>1997-98</u>	<u>1998-99*</u>	<u>1999-00*</u>	<u>2000-01*</u>
Surcharge Revenues	\$3,111,000	\$3,111,000	\$3,265,865	\$2,755,959	0**	0**	0***
Interest Earned				506,906	552,706	439,529	324,576
Transferred to General Fund				-506,906	-552,706	-500,000	-500,000
Cleanup Expenditures	-166,001	-524,913	-707,272	-776,136	-1,354,962	-2,238,600	-2,238,600
Ending Fund Balance				\$11,514,844	\$10,159,882	\$7,860,811	\$5,446,787

*Estimated

**Fee holiday

***Proposed fee holiday

7. Due to large balances in the funds, the 1997-99 biennial budget act temporarily suspended all ACCP surcharges. The suspension of ACCP surcharges is estimated to cost the fund \$2.8 million in lost revenue in 1998-99 and \$2.9 million in 1999-2000. At the expiration of the fee holiday, surcharges are scheduled to return to their 1997-98 levels. However, DATCP has statutory authority to reduce future ACCP surcharges by administrative rule, as long as a \$2 million to \$5 million balance is maintained in the segregated cleanup fund. Surcharge levels established by the Department can range between zero and the statutory maximum levels (the 1997-98 surcharge levels). The Board of Agriculture, Trade and Consumer Protection approved a final draft rule to extend the suspension of ACCP surcharges for an additional two years in April, 1999, which would reduce revenues to the fund by an estimated \$5.9 million in 2000-02.

8. In the 1997-99 biennium, grant funding for the cleanup of agricultural chemical spills was authorized totaling \$3,400,000 GPR in a biennial appropriation and \$4,477,200 SEG in a continuing appropriation from the ACCP fund. Between July 1, 1997 and June 30, 1998, the Department spent \$776,000 SEG and \$688,000 GPR. It is estimated that the Department will spend an additional \$1.35 million SEG and \$1.2 million GPR in 1998-99. Approximately \$1.3 million GPR will lapse from the biennial appropriation at the end of 1997-99.

9. Historically, grant activity has been lower than anticipated, resulting in a \$3.1 million directed lapse of unexpended GPR from the program to the general fund in 1995-96 and an additional \$3.3 million in the beginning of 1997-98. However, it is projected that grant reimbursements will increase by 75% in 1998-99 over the previous year. Part of this increase is due to a provision requiring that to be reimbursable, cleanup costs must have been incurred within three years of the application date or by October 14, 2000, whichever is later. Owners of some sites

cleaned up in the earlier part of the decade are only now applying for reimbursement, in order to meet the October 14, 2000 deadline. Table 2 portrays actual and anticipated grant amounts, by funding source.

TABLE 2
Agricultural Chemical Cleanup Reimbursements

<u>Year</u>	<u>SEG</u>	<u>GPR</u>	<u>Total</u>	<u>Percent Increase</u>
1994-95	\$166,000	\$609,800	\$775,800	--
1995-96	524,900	465,500	990,400	28%
1996-97	707,300	627,200	1,334,500	35
1997-98	776,100	688,300	1,464,400	10
1998-99 est.	1,355,000	1,201,600	2,556,600	75
1999-2000 est.	2,238,600	678,700	2,917,300	14
2000-01 est.	<u>2,238,600</u>	<u>1,500,000</u>	<u>3,738,600</u>	28
Total	\$8,006,500	\$5,771,100	\$13,777,600	

10. Under the Governor's recommendation, to reduce GPR funding for the cleanup of agrichemical spills would require more spending from the ACCP fund in 1999-2000 than the 53% currently allotted. The Governor's proposal would fund 77% of cleanups from the ACCP fund and 23% from GPR in 1999-2000. The Committee could consider adjusting appropriation amounts and continuing to fund cleanups at 77% SEG and 23% GPR in 2000-01, rather than 60% SEG and 40% GPR under the bill. This alternative would reduce base GPR funding by \$2,161,400 and increase SEG spending authority by \$640,100 (a \$640,100 GPR reduction and identical SEG increase to the bill).

11. DATCP has estimated expenditures at \$4,259,100 in 1999-2000 and \$3,196,800 in 2000-01. However, grant activity consistently has been lower than the agency has anticipated. If DATCP receives higher reimbursement requests than provided by the bill, the Department could request additional expenditure authority under the section 13.10 process.

Transfer of Funds

12. The Governor's proposal would also reduce the ACCP fund balance by transferring \$500,000 in each year of the 1999-2001 biennium from the ACCP fund to the general fund. The \$1 million would be slightly less than the amount transferred under the 1997-99 budget act, which required that interest accumulated to the ACCP fund for the two-year period be deposited to the general fund.

13. The surcharges deposited to the ACCP fund were paid for by fertilizer and pesticide businesses, with costs being passed on to their customers, many of whom are involved in

agricultural industries, including farming. Many of these individuals believe monies provided for agrichemical purposes should be used accordingly, and not deposited to the general fund.

14. Conversely, GPR is also provided for cleanups. The ACCP grant program is the only state program that contains GPR funding for remediation of environmental contamination in which the responsible party is known. Similar cleanup programs such as the PECFA program and DNR's environmental repair programs are paid for through segregated revenues (for example, fees on petroleum products and various landfill tipping fees, waste generator fees, sanitary permit surcharges and reimbursements from responsible parties for state-funded cleanups).

15. Further, it could be argued that fees paid by the agrichemical industry should pay for the entire cost of the cleanup program, because: (a) these facilities are responsible for the contamination that exists at their sites and (b) a general fund subsidization of the cleanup cost associated with the use of agrichemical products results in market distortions since the purchaser does not pay the true costs associated with the use of the product.

16. The Committee could consider eliminating the GPR appropriation and entirely funding the program from ACCP fees. DATCP officials indicate that reimbursements for agrichemical spill cleanups may peak in 1999-2000 before beginning to decrease in 2000-01, since only costs incurred for spills cleaned up within three years of the application date are eligible for reimbursement. Further, it is estimated that the Department could collect \$3 million annually in ACCP fees once the fee holiday is ended. Therefore, the ACCP fund could fully support the program with currently authorized surcharges, without the need for GPR. Including the two-year extension of the fee holiday proposed by DATCP rule and the transfer of \$500,000 in each year of the biennium to the general fund under the bill, this option (Alternative 4) would maintain an estimated \$3.2 million balance in the fund on July 1, 2001. The balance would be \$4.2 million if the Governor's recommendation to lapse \$1 million from the fund were not adopted (Alternative 5).

17. Conversely, the Agricultural Chemical Cleanup Council has argued that the general public should contribute to the costs of cleanup because they have benefited from the use of pesticides and fertilizers through both lower food prices and higher quality foods.

ALTERNATIVES TO BASE

1. Approve the Governor's recommendations to (a) reduce GPR funding for the cleanup of agrichemical spills by \$1,171,300 in 1999-2000 and \$350,000 in 2000-01 and (b) transfer \$500,000 from the ACCP fund to the general fund in each year of the 1999-01 biennium.

Alternative 1	GPR	SEG	TOTAL
1999-01 REVENUE (Change to Base)	\$1,000,000	-\$1,000,000	\$0
<i>[Change to Bill]</i>	\$0	\$0	\$0]
1999-01 FUNDING (Change to Base)	-\$1,521,300	\$0	-\$1,521,300
<i>[Change to Bill]</i>	\$0	\$0	\$0]

2. Delete \$1,171,300 GPR in 1999-2000 and \$990,100 GPR in 2000-01 and provide \$640,100 SEG in 2000-01, require DATCP to distribute agrichemical cleanup grants using 77% SEG and 23% GPR and transfer \$500,000 from the ACCP fund to the general fund in each year of the 1999-01 biennium.

<u>Alternative 2</u>	<u>GPR</u>	<u>SEG</u>	<u>TOTAL</u>
1999-01 REVENUE (Change to Base)	\$1,000,000	-\$1,000,000	\$0
[Change to Bill]	\$0	\$0	\$0]
1999-01 FUNDING (Change to Base)	-\$2,161,400	\$640,100	-\$1,521,300
[Change to Bill]	-\$640,100	\$640,100	\$0]

3. Delete \$1,171,300 GPR in 1999-2000 and \$990,100 GPR in 2000-01 and provide \$640,100 SEG in 2000-01 and require DATCP to distribute agrichemical cleanup grants using 77% SEG and 23% GPR. (No lapse from the ACCP fund would be required.)

<u>Alternative 3</u>	<u>GPR</u>	<u>SEG</u>	<u>TOTAL</u>
1999-01 REVENUE (Change to Base)	\$0	\$0	\$0
[Change to Bill]	-\$1,000,000	\$1,000,000	\$0]
1999-01 FUNDING (Change to Base)	-\$2,161,400	\$640,100	-\$1,521,300
[Change to Bill]	-\$640,100	\$640,100	\$0]

4. Eliminate \$1,850,000 GPR in each year of the biennium and delete the appropriation to eliminate GPR funding for the program. Further, increase expenditure authority from the ACCP fund by \$678,700 SEG in 1999-2000 and \$1,500,000 SEG in 2000-01 to fund reimbursement grants for agrichemical cleanups fully from the segregated ACCP fund. Finally, transfer \$500,000 from the ACCP fund to the general fund in each year of the 1999-01 biennium.

<u>Alternative 4</u>	<u>GPR</u>	<u>SEG</u>	<u>TOTAL</u>
1999-01 REVENUE (Change to Base)	\$1,000,000	-\$1,000,000	\$0
[Change to Bill]	\$0	\$0	\$0]
1999-01 FUNDING (Change to Base)	-\$3,700,000	\$2,178,700	-\$1,521,300
[Change to Bill]	-\$2,178,700	\$2,178,700	\$0]

5. Eliminate \$1,850,000 GPR in each year of the biennium and delete the appropriation to eliminate GPR funding for the program. Further, increase expenditure authority from the ACCP fund by \$678,700 SEG in 1999-2000 and \$1,500,000 SEG in 2000-01 to fund reimbursement grants for agrichemical cleanups fully from the segregated ACCP fund. (No lapse from the ACCP fund would be required.)

<u>Alternative 5</u>	<u>GPR</u>	<u>SEG</u>	<u>TOTAL</u>
1999-01 REVENUE (Change to Base)	\$0	\$0	\$0
<i>[Change to Bill]</i>	<i>-\$1,000,000</i>	<i>\$1,000,000</i>	<i>\$0</i>
1999-01 FUNDING (Change to Base)	-\$3,700,000	\$2,178,700	-\$1,521,300
<i>[Change to Bill]</i>	<i>-\$2,178,700</i>	<i>\$2,178,700</i>	<i>\$0</i>

6. Maintain current law.

<u>Alternative 6</u>	<u>GPR</u>	<u>SEG</u>	<u>TOTAL</u>
1999-01 REVENUE (Change to Base)	\$0	\$0	\$0
<i>[Change to Bill]</i>	<i>-\$1,000,000</i>	<i>\$1,000,000</i>	<i>\$0</i>
1999-01 FUNDING (Change to Base)	\$0	\$0	\$0
<i>[Change to Bill]</i>	<i>\$1,521,300</i>	<i>\$0</i>	<i>\$1,521,300</i>

Prepared by: David Schug

1999

Date (time) needed SOON

LRB b 0269 11

**LFB BUDGET AMENDMENT
[ONLY FOR LFB]**

Ret : King :

See form **AMENDMENTS — COMPONENTS & ITEMS.**

**LFB AMENDMENT
TO 1999 ASSEMBLY BILL 133 AND 1999 SENATE BILL 45**

>>FOR JT. FIN. SUB. — NOT FOR INTRODUCTION<<

At the locations indicated, amend the bill as follows:

✓ #. Page 37.4, line 2.3: after that line insert:
"Section 184e. RP; 20.115(7)(e)"

✓ #. Page 95.2, line 2.1: after that line insert:

#. Page , line :

#. Page , line :

#. Page , line :

#. Page , line :

0269/1

1995e

1) Section ~~94.73~~ (2) (c) of the statutes is amended to read:

94.73 (2) (c) The department may issue an order under par. (a) on a summary basis without prior notice or a prior hearing if the department determines that a summary order is necessary to prevent imminent harm to public health or safety or to the environment. If the recipient of a summary order requests a hearing on that order, the department shall hold a hearing within 10 days after it receives the request unless the recipient agrees to a later hearing date. The department is not required to stay enforcement of a summary order issued under this paragraph pending the outcome of the hearing. If the responsible person prevails after a hearing, the department shall reimburse the responsible person from the appropriation ^{account} under s. 20.115 (7) ~~(e)~~ [✓] or (wm) for the corrective action costs incurred as the result of the department's order.

*

History: 1993 a. 16, 437; 1995 a. 27, 227; 1997 a. 27, 86.

60269//

1945g

Section ~~94.73~~ 94.73 (7) (a) of the statutes is amended to read:

94.73 (7) (a) The department may make payments to a responsible person who is eligible for reimbursement under sub. (3) if the department has authorized reimbursement to that person under sub.

* (6). The department shall make payment from the appropriation ~~accounts~~ ^{account} (under s. 20.115 (7) ~~e~~)
 * ~~and~~ (wm), subject to the availability of funds in ~~those~~ ^{that} appropriation ~~accounts~~ ^{account}. If there are insufficient funds to pay the full amounts authorized under sub. (6) to all eligible responsible persons, the department shall distribute payments in the order in which applications were received, unless the
 * department specifies, by rule, a different order of payment. "

History: 1993 a. 16, 437; 1995 a. 27, 227; 1997 a. 27, 86.

(End)



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb0269/1
RCT:kmg:km

LFB:.....Schug - Agricultural chemical cleanup funding

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

LFB AMENDMENT

TO 1999 ASSEMBLY BILL 133 AND 1999 SENATE BILL 45

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 374, line 23: after that line insert:

3 “SECTION 184e. 20.115 (7) (e) of the statutes is repealed.”.

4 **2.** Page 952, line 21: after that line insert:

5 “SECTION 1945e. 94.73 (2) (c) of the statutes is amended to read:

6 94.73 (2) (c) The department may issue an order under par. (a) on a summary
7 basis without prior notice or a prior hearing if the department determines that a
8 summary order is necessary to prevent imminent harm to public health or safety or
9 to the environment. If the recipient of a summary order requests a hearing on that
10 order, the department shall hold a hearing within 10 days after it receives the
11 request unless the recipient agrees to a later hearing date. The department is not

1 required to stay enforcement of a summary order issued under this paragraph
2 pending the outcome of the hearing. If the responsible person prevails after a
3 hearing, the department shall reimburse the responsible person from the
4 appropriation account under s. 20.115 (7) ~~(e)~~ or (wm) for the corrective action costs
5 incurred as the result of the department's order.

6 **SECTION 1945g.** 94.73 (7) (a) of the statutes is amended to read:

7 94.73 (7) (a) The department may make payments to a responsible person who
8 is eligible for reimbursement under sub. (3) if the department has authorized
9 reimbursement to that person under sub. (6). The department shall make payment
10 from the appropriation ~~accounts~~ account under s. 20.115 (7) ~~(e)~~ and (wm), subject to
11 the availability of funds in ~~these~~ that appropriation ~~accounts~~ account. If there are
12 insufficient funds to pay the full amounts authorized under sub. (6) to all eligible
13 responsible persons, the department shall distribute payments in the order in which
14 applications were received, unless the department specifies, by rule, a different order
15 of payment.”.

16 (END)