

## ATTACHMENT

### Appropriations From the Environmental Management Account, 2001-03

		2001-02 Appropriated	2002-03 Appropriated	2002-03 Auth. Positions
<b>Natural Resources</b>				
370	(2)(du) Solid waste management -- site specific remediation	\$0	\$0	
370	(2)(dv) Solid waste management -- environmental repair; spills; abandoned containers	3,321,300	3,321,300	
371	(2)(fq) Indemnification agreements	0	0	
370	(2)(mq) General program operations (Air and Waste)	4,204,700	4,204,700	59.00
370	(3)(mq) General program operations (Enforcement and Science)	1,170,800	1,170,800	11.00
370	(4)(ar) Water resources -- groundwater management	125,000	125,000	
370	(4)(au) Cooperative remedial action; contributions	0	0	
370	(4)(av) Cooperative remedial action; interest on contributions	0	0	
370	(4)(mq) General program operations (Water)	2,333,400	2,333,400	22.00
370	(6)(bs) Environmental aids -- household hazardous waste	150,000	150,000	
370	(6)(cr) Environmental aids -- compensation for well contamination	400,000	400,000	
370	(6)(er) Environmental aids -- sustainable urban development zones	525,000	0	
370	(6)(et) Environmental aids -- brownfield site assessment	1,700,000	1,700,000	
370	(6)(eu) Environmental aids -- brownfields green space grants	1,000,000	0	
370	(7)(bg) Principal repayment and interest - remedial action	2,400,000	2,700,000	
371	(7)(er) Administrative facilities -- principal repayment and interest	69,800	157,500	
371	(8)(mv) General program operations (Administration and Technology)	1,810,700	1,817,600	4.00
370	(9)(mv) General program operations (Customer Assistance and External Relations)	585,500	585,500	7.70
<b>Commerce</b>				
143	(1)(qm) Brownfields grant program; environmental fund	7,000,000	7,000,000	
<b>Health and Family Services</b>				
435	(1)(q) Groundwater and air quality standards	386,600	386,700	3.50
<b>Military Affairs</b>				
465	(3)(t) Emergency response training -- environmental fund	10,500	10,500	
<b>University of Wisconsin System</b>				
285	(1)(r) Environmental education; environmental assessments	<u>65,000</u>	<u>65,000</u>	
<b>Total SEG Environmental Management Account Appropriations</b>		<b>\$27,258,300</b>	<b>\$26,128,000</b>	<b>107.20</b>

Proposal for Elimination of "Retroactive" Fees

The department is interested in solutions to the "retroactive" fee debates that have occurred this past year. While we have all explored and found no alternatives to the fee rules that will be published November 1, we are interested in means to avoid recurrence of this issue. One suggestion is as follows, but we are open to other suggestions:

2002 License Fees

Paid December, 2001—No change from current law and November 1 ACCP fee rule. Fees will be based on sales from October 1, 2000 through September 30, 2001

2003 License Fees

New system in place, based on legislation (if endorsed by this committee).

A December 2002 payment will be based on the registrant's projected sales from October 1, 2002 through September 30, 2003.

In December 2003 the registrant reports actual sales from October 1, 2002 through September 30, 2003 and pays a fee adjustment if they under-paid in 12/02, or requests a fee rebate if they over-paid in 12/02.

2004 License Fees

Along with the final report and adjustments for 2003 sales (above), a December 2003 payment will be based on the registrant's projected sales from October 1, 2003 through September 30, 2004.

In December 2004 the registrant reports actual sales from October 1, 2003 through September 30, 2004 and pays a fee adjustment if they under-paid in 12/03, or requests a fee rebate if they over-paid in 12/03.

To assure registrants provide reasonable estimate of their sales, there must be a substantial penalty for significant under-estimates. We suggest that a 20% penalty would be charged if their estimate at the start of the license period resulted in an under-payment of more than 20% of the amount due for that product.

This explains in more detail the suggestion Item 6 dealing with the "retroactive" fees we implemented.

These 2 pages  
show Fiscal projections  
both for

ACM + ACCP funds  
under current law +  
under this proposal.

taking into account  
agency cuts in budget  
etc.

These are referred to  
in the other papers.

12/14/01

696

**ACM**

**Agrichemical Management Fund Projections**

**Under Current Law**

Fiscal Year	2001/2002	2002/2003	2003/2004	2004/2005	2005/2006
Opening Balance	4,076,915	220,941	-799,938	-1,657,315	-2,528,359
Base Revenues	4,063,000	5,098,000	5,098,000	5,098,000	5,098,000
Interest	163,077	8,838	-31,998	0	0
Base Expenditures	-5,982,051	-6,027,716	-6,073,380	-6,119,044	-6,164,708
Producer Security*	-2,000,000		250,000	250,000	250,000
Ag in Classroom	-100,000	-100,000	-100,000	-100,000	-100,000
Closing Balance	220,941	-799,938	-1,657,315	-2,528,359	-3,445,067

**ACM**

**Agrichemical Management Fund Projections**

**Under Proposal**

Fiscal Year	2001/2002	2002/2003	2003/2004	2004/2005	2005/2006	2006/2007
Opening Balance	4,076,915	220,941	62	514,685	589,228	621,089
Base Revenues	4,063,000	5,098,000	5,098,000	5,098,000	5,098,000	5,098,000
Action Item D. (reduce env. fund transfer)			775,000	775,000	775,000	775,000
Action Item E. (feed tonnage)			150,000	150,000	150,000	150,000
Action Item F. (fert. tonnage starting in FY 2007/2008 at 195,000)						
Action Item G. (retroactive correction)			-35,000			
Interest	163,077	8,838	2	20,587	23,569	24,844
Base Expenditures	-5,982,051	-6,027,716	-6,073,380	-6,119,044	-6,164,708	-6,288,002
Prod. Sec. (minimum)	-2,000,000		250,000	250,000	250,000	1,600,000
Action Item J. (accel prod. sec.)		800,000	450,000	0	0	-1,370,000
			(2006/2007 is the final loan payment--future years will be zero)			
Ag in Classroom	-100,000	-100,000	-100,000	-100,000	-100,000	-100,000
Closing Balance	220,941	62	514,685	589,228	621,089	510,931

**ACCP**

**Agricultural Chemical Cleanup Fund Projections  
Under Current Law and Rule**

Fiscal Year	2001/2002	2002/2003	2003/2004	2004/2005	2005/2006
Opening Balance	3,246,846	1,136,720	464,189	-235,244	-953,244
Revenues	1,560,000	2,682,000	2,682,000	2,682,000	2,682,000
Interest	129,874	45,469	18,568	0	0
Reimbursements	-3,800,000	-3,400,000	-3,400,000	-3,400,000	-3,400,000
Closing Balance	1,136,720	464,189	-235,244	-953,244	-1,671,244

**ACCP**

**Agricultural Chemical Cleanup Fund Projections  
As Proposed**

Fiscal Year	2001/2002	2002/2003	2003/2004	2004/2005	2005/2006	2006/2007
Opening Balance	3,246,846	1,136,720	564,189	56,756	206,026	381,267
Current Revenues	1,560,000	2,682,000	2,682,000	2,682,000	2,682,000	2,682,000
Action Item C. (increase fert. surcharge--at \$0.15)				195,000	195,000	195,000
Action Item G. (retroactive correction)			-192,000			
Interest	129,874	45,469	22,568	2,270	8,241	15,251
Full Reimbursements	-3,800,000	-3,400,000	-3,400,000	-3,400,000	-3,400,000	-3,400,000
Action Item A. (decrease caseload)		100,000	300,000	510,000	510,000	510,000
Action Item B. (increase co-pay)			80,000	160,000	180,000	180,000
Closing Balance	1,136,720	564,189	56,756	206,026	381,267	563,518

## Tradewell, Becky

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**From:** Morrison, Paul A DATCP  
**Sent:** Wednesday, December 19, 2001 2:36 PM  
**To:** Tradewell, Becky  
**Subject:** FW: Language for the "retroactive" issue



statlang.doc

You are listed twice in the email directory. Hopefully this time it gets to you.

-----Original Message-----

**From:** Morrison, Paul A DATCP  
**Sent:** Wednesday, December 19, 2001 2:33 PM  
**To:** Tradewell, Becky; Kalies, Beata  
**Subject:** Language for the "retroactive" issue

I've attached a draft for your consideration. A light went on while driving back to the office and I put this together before it went out again (at least I think it was still on).

I think this handles the whole situation rather cleanly, but you may find some holes where the light leaked out. Let me know either way.

Revisions to s. 94.681

This draft revises 94.681(2) by replacing the current structure with a system based on sales during a defined "payment period" that runs from the October before the license year starts, through September of the license year. All the year references are deleted, since a delayed effective date would preserve the current structure until all these dates have expired.

The draft eliminates expired date language from the start of sub(3).

The draft handles the estimated payment at the start of the year and the final payment at the end of the year through new text at sub. (3n). I've intentionally kept this separate from the fees due because it separates the two aspects of the intended change; the period for which fees are calculated and the manner in which fees are paid. Sub (2) parallels the existing text to describe the total fees that must be paid. Sub (3n) describes the change in how these fees will be paid. This separation is also needed because the fee payment system also affects those surcharges that are based on sales volumes, as found in (3) and (3m).

The penalties provisions for low estimates are also addressed in the new sub (3n). I've also pulled the existing penalty language for late payments into this section. Currently this late fee penalty is listed generically for all "licenses, permits, etc., in 93.21(5). We suggest it be repeated here for clarity in distinguishing a late fee penalty from a low estimate penalty.

Finally, the change for the DNR portion of the fee is also revised as discussed.

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94.681(1)(f) is created to read:

94.681(1)(f) "Payment period" means the 12 months ending on September 30 of the calendar year for which a license is sought under s. 94.68.

94.681(2) is repealed and recreated to read:

94.681(2) ANNUAL LICENSE FEE. An applicant for a license under s. 94.68 shall pay an annual license fee for each pesticide product that the applicant sells or distributes for use in this state. The fee amount will be based on the sales of pesticide during the payment period. An applicant shall pay an estimated fee before the start of each license year, as determined under sub (3n)(a), and a final fee adjustment before the end of each license year, as determined under sub. (3n)(b). Except as provided in sub. (5) or (6), the fee for each pesticide product is as follows:

- (a) For each household pesticide product:
  1. If the applicant sells less than \$25,000 of the product during that payment period, \$265.
  2. If the applicant sells at least \$25,000, but less than \$75,000 of the product during that payment period, \$750.

3. If the applicant sells \$75,000 or more of the product during that payment period, \$1,500.
- (b) For each industrial pesticide product:
  1. If the applicant sells less than \$25,000 of the product during that payment period, \$315.
  2. If the applicant sells at least \$25,000, but less than \$75,000 of the product during that payment period, \$860.
  3. If the applicant sells \$75,000 or more of the product during that payment period, \$3,060.
- (c) For each nonhousehold pesticide product:
  1. If the applicant sells less than \$25,000 of the product during that payment period, \$320.
  2. If the applicant sells at least \$25,000, but less than \$75,000 of the product during that payment period, \$890.
  3. If the applicant sells \$75,000 or more of the product during that payment period, \$3,060 plus 0.2% of the gross revenues from sales of the product during that payment period.

94.681(3) (intro) is amended to read:

94.681(3) NONHOUSEHOLD PESTICIDES; CLEANUP SURCHARGE. ~~Except for the license years that begin on January 1, 1999, and January 1, 2000, an~~ An applicant for a license under s. 94.68 shall pay an agricultural chemical cleanup surcharge for each nonhousehold pesticide product that the applicant sells or distributes for use in this state. Except as provided in sub. (6) or under s. 94.73(15), the amount of the surcharge is as follows:

94.681(3n) is created to read:

94.681(3n) FEES DUE, WHEN PAID; PENALTIES. (a) Estimated payments. Before the start of the license year or at least 15 days before distributing a new pesticide product in Wisconsin, the applicant shall estimate their gross revenues from sales of that pesticide product during the payment period for which a license is sought and shall pay the appropriate fee amounts under subs. (2), (3) and (3m).

(b) Reconciliation payments. Before the end of the license year the applicant shall report their actual sales during the payment period for the year that is ending, as required under s. 94.68(2)(a)2., and shall reconcile their estimated payment under par. (a) with the amount due for actual sales under subs. (2), (3) and (3m).

1. If the amount due for actual sales is greater than the estimated amount paid under par. (a), the applicant shall pay the additional amount due.

2. If the amount due for actual sales is less than the estimated amount paid under par. (a), the applicant may request reimbursement for the amount over-paid.

3. If the amount due for actual sales equals the estimated amount paid under par. (a), no action is required.

(c) Penalties for low estimated payments. 1. Except as provided in subd. 2, if an applicant's total payment due for all that applicant's products under par. (b) are more than 20% of the total payment due for all that applicant's products under par. (a), the



applicant shall pay a penalty for submitting low estimated payments. The penalty shall equal 20% of that applicant's total payment under par. (b)

2. Subd. 1 does not apply if the applicant's estimated payments for each product under par. (a) were equal to or greater than 90% of the applicant's actual sales for the preceding year, as reported under s. 94.68(2)(a)2.

(d) Penalties for late payments. In addition to any penalties under par (c), any applicant that submits a payment under this section after the date that payment is due without obtaining an extension from the department shall pay a late fee equal to 20% of the amount paid late.

94.681(7)(a) is repealed and recreated to read:

94.681(7)(a) *License fees.* The department shall deposit all license fees collected under subs. (2), (5) and (6)(a)3. in the agrichemical management fund except that the department shall deposit \$60 for each household and each industrial pesticide in the environmental fund for environmental management.

The effective date for all changes to s. 94.681 would be October 1, 2003. The existing text will suffice for implementation of fees prior to that date.



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-4442/P1

RCT:.....  
chmh

soon (in 1/3)

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

ONote

Generate

1 AN ACT ...; relating to: fees and surcharges related to pesticides, fertilizer, and  
2 feed, reimbursement under the agricultural chemical cleanup program,  
3 transfers from the agrichemical management fund to the environmental fund,  
4 and the required balance in the agricultural chemical cleanup fund.

*Analysis by the Legislative Reference Bureau*

This is a preliminary draft. An analysis will be provided in a later version.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

5 SECTION 1. 25.46 (4) of the statutes is amended to read:  
6 25.46 (4) The moneys specified under s. 94.681 (7) (a) ~~1. and 2.~~ for  
7 environmental management.

History: 1983 a. 410; 1985 a. 29; 1987 a. 27; 1989 a. 31, 335; 1991 a. ~~34~~ 112, 269, 309; 1993 a. 16, 261, 453, 458; 1995 a. 27, 227; 1997 a. 27; 1999 a. 9; 2001 a. 16.

8 SECTION 2. 94.64 (3m) (b) (intro.) of the statutes is amended to read:  
9 94.64 (3m) (b) (intro.) An application for a permit under par. (a) 2. shall be on  
10 a form prescribed by the department and shall be accompanied by a proposed product

Insert 1-7

1 label and a nonrefundable fee of ~~\$25~~ <sup>✓</sup> \$100. The department may require that the  
2 applicant substantiate, by scientific evidence:

History: 1977 c. 418; 1981 c. 57; 1983 a. 189 ss. 121, 329 (20); ~~1983 a. 410~~; 1985 a. 147; 1987 a. 398; 1989 a. 31; 1991 a. 39, 112; 1993 a. 16, 417, 492; 1995 a. 4, 176, 227; 1997 a. 27; 1999 a. 9, 32.

3 **SECTION 3.** 94.64 (4) (a) ~~1.~~ <sup>✓</sup> of the statutes is amended to read:

4 94.64 (4) (a) 1. A basic fee of ~~23~~ <sup>✓</sup> 30 cents per ton for fertilizer sold or distributed  
5 beginning on ~~October 29, 1999~~ <sup>✓</sup> July 1, 2001, and ending on June 30, ~~2001~~ <sup>✓</sup> 2006, and  
6 30 45 cents per ton for fertilizer sold or distributed after June 30, ~~2001~~ <sup>✓</sup> 2006, with  
7 a minimum fee of \$25.

History: 1977 c. 418; 1981 c. 57; 1983 a. 189 ss. 121, 329 (20); 1983 a. 410; ~~1985 a. 147~~; 1987 a. 398; 1989 a. 31; 1991 a. 39, 112; 1993 a. 16, 417, 492; 1995 a. 4, 176, 227; 1997 a. 27; 1999 a. 9, 32.

8 **SECTION 4.** 94.64 (4) (a) 5. of the statutes is amended to read:

9 94.64 (4) (a) 5. An agricultural chemical cleanup surcharge of ~~38~~ <sup>✓</sup> 88 cents per  
10 ton on all fertilizer that the person sells or distributes in this state ~~after June 30,~~  
11 ~~1999~~, unless the department establishes a lower surcharge under s. 94.73 (15).

History: 1977 c. 418; 1981 c. 57; 1983 a. 189 ss. 121, 329 (20); 1983 a. 410; ~~1985 a. 147~~; 1987 a. 398; 1989 a. 31; 1991 a. 39, 112; 1993 a. 16, 417, 492; 1995 a. 4, 176, 227; 1997 a. 27; 1999 a. 9, 32.

12 **SECTION 5.** 94.681 (1) (cm) of the statutes is created to read:

13 94.681 (1) (cm) "Payment <sup>✓</sup> period" means the 12 months ending on September  
14 30 of the calendar year for which a license is sought under s. 94.68.

15 **SECTION 6.** 94.681 (2) of the statutes is repealed and recreated to read:

16 94.681 (2) ANNUAL LICENSE FEE. An applicant for a license under s. 94.68 shall  
17 pay an annual license fee for each pesticide product that the applicant sells or  
18 distributes for use in this state. The amount of the fee is based on sales of pesticide  
19 products during the payment period. An applicant shall pay an estimated fee before  
20 the start of each license year as provided in sub. (3s) (a) and shall make a fee  
21 adjustment payment before the end of the license year if required under sub. (3s) (b).  
22 Except as provided in sub. (5) or (6), the fee for each pesticide product is as follows:

23 (a) For each household pesticide product:



1 each nonhousehold pesticide product that the applicant sells or distributes for use  
2 in this state. The amount of the surcharge is based on sales of nonhousehold  
3 pesticide products during the payment period. An applicant shall pay an estimated  
4 surcharge before the start of each license year as provided in sub. (3s)<sup>✓</sup>(a) and shall  
5 make a surcharge adjustment payment before the end of the license year if required  
6 by sub. (3s)<sup>✓</sup>(b). Except as provided in sub. (6) or under s. 94.73 (15), the amount of  
7 the surcharge is as follows:

8 (a) If the applicant ~~sold~~ sells less than \$25,000 of the product during the  
9 preceding year payment period for use in this state, \$5.

10 (b) If the applicant ~~sold~~ sells at least \$25,000 but less than \$75,000 of that  
11 product during the preceding year payment period for use in this state, \$170.

12 (c) If the applicant ~~sold~~ sells at least \$75,000 of that product during the  
13 preceding year payment period for use in this state, an amount equal to 1.1% of gross  
14 revenues from sales of the product during the preceding year payment period for use  
15 in this state.

History: 1989 a. 31; 1997 a. 27; 1999 a. 9.

16 **SECTION 8.** 94.681 (3m) of the statutes is amended to read: ✓

17 94.681 (3m) WOOD PRESERVATIVES; CLEANUP SURCHARGE. An applicant for a  
18 license under s. 94.68 shall pay an environmental cleanup surcharge for each  
19 pesticide product that is not a household pesticide and is solely labeled for use on  
20 wood and contains pentachlorophenol or coal tar creosote that the applicant sells or  
21 distributes in this state. The amount of the surcharge is based on sales of pesticide  
22 products that are not household pesticides and are solely labeled for use on wood and  
23 contain pentachlorophenol or coal tar creosote during the payment period. An  
24 applicant shall pay an estimated surcharge before the start of each license year as

1 provided in sub. (3s) (a) and shall make a surcharge adjustment payment before the  
2 end of the license year if required by sub. (3s) (b). Except as provided in sub. (6), the  
3 amount of the surcharge is as follows:

4 (a) If the applicant ~~sold~~ sells less than \$25,000 of the product during the  
5 ~~preceding year~~ payment period for use in this state, \$5.

6 (b) If the applicant ~~sold~~ sells at least \$25,000 but less than \$75,000 of that  
7 product during the ~~preceding year~~ payment period for use in this state, \$170.

8 (c) If the applicant ~~sold~~ sells at least \$75,000 of that product during the  
9 ~~preceding year~~ payment period for use in this state, an amount equal to 1.1% of gross  
10 revenues from sales of the product during the ~~preceding year~~ payment period for use  
11 in this state.

History: 1989 a. 31; 1997 a. 27; 1999 a. 9.

12 **SECTION 9.** 94.681 (3s) of the ~~statutes~~ <sup>✓</sup> is created to read:

13 **94.681 (3s) PAYMENT OF FEES AND SURCHARGES.** (a) Before the start of a license  
14 year, an applicant shall estimate the gross revenues that the applicant will receive  
15 from sales of each pesticide product during the payment period that ends during the  
16 year for which a license is sought under s. 94.81 and shall pay the amounts under  
17 subs. (2), (3), and (3m) based on that estimate. At least 15 days before beginning to  
18 sell a new pesticide product in this state, a licensee shall estimate the gross revenues  
19 that the applicant will receive from sales of that pesticide product during the  
20 payment period in which the licensee begins to sell the pesticide product and shall  
21 pay the amounts under subs. (2), (3), and (3m) based on that estimate.

22 (b) Before the end of a license year, a licensee shall report to the department  
23 the gross revenues that the licensee received from sales of each pesticide product  
24 during the payment period that ended during the license year, as required under s.

1 94.68 (2) (a) 2., and shall reconcile the estimated payment made under par. (a) with  
2 the amounts actually due under subs. (2), (3), and (3m) as follows:

3 1. If the amount due based on actual sales is greater than the amount paid  
4 based on estimated sales, the licensee shall pay the additional amount due.

5 2. If the amount due based on actual sales is less than the amount paid based  
6 on estimated sales, the licensee may request the department to reimburse the  
7 licensee for the amount of the overpayment.

8 3. If the amount due based on actual sales equals the amount paid based on  
9 estimated sales, no action is required.

10 (c) 1. Except as provided in subd. 2., if a licensee's total payment due under par.  
11 (b) is more than 20% of the total amount paid under par. (a), the licensee shall pay  
12 a penalty equal to 20% of the total amount due under par. (b). The penalty under this  
13 subdivision is in addition to any late filing fee under s. 93.21 (5).

14 2. Subdivision 1. does not apply to a licensee if the licensee's payments under  
15 par. (a) are based on estimates of gross revenues from sales for each pesticide product  
16 that equal at least 90% of the licensee's gross revenues from sales of the pesticide  
17 product during the preceding year.

18 SECTION 10. 94.681 (7) (a) (intro.) and 1. of the statutes are consolidated,  
19 renumbered 94.681 (7) (a) and amended to read:

20 94.681 (7) (a) *License fees.* The department shall deposit all license fees  
21 collected under subs. (2), (5) and (6) (a) 3. in the agrichemical management fund  
22 except as follows: 1. ~~The that the~~ department shall deposit an amount equal to \$94  
23 \$60 for each household pesticide and industrial pesticide product for which an

1 applicant pays a license fee in the environmental fund for environmental  
2 management.

History: 1989 a. 31; 1997 a. 27; 1999 a. 9.

3 **SECTION 11.** 94.681 (7) (a) 2. of the statutes is repealed.

4 **SECTION 12.** 94.72 (6) (a) 1. of the statutes is repealed.

5 **SECTION 13.** 94.72 (6) (a) 2. of the statutes is amended to read:

6 94.72 (6) (a) 2. For commercial feeds distributed in this state beginning on or  
7 after January 1, 2002, and ending on December 31, 2002, a feed inspection fee of 23  
8 cents per ton.

History: 1975 c. 39, 198, 199; 1977 c. 29 s. 1650m (4); 1979 c. 34; 1983 a. 189; 1985 a. 138; 1991 a. 39, 112; 1995 a. 4; 1997 a. 27, 253; 1999 a. 9.

9 **SECTION 14.** 94.72 (6) (a) 2m. of the statutes is created to read:

10 94.72 (6) (a) 2m. For commercial feeds distributed in this state on or after  
11 January 1, 2003, a feed inspection fee of 28 cents per ton or \$30, whichever is greater.

12 **SECTION 15.** 94.73 (6) (b) of the statutes is amended to read:

13 94.73 (6) (b) Except as provided in pars. (c) and (e), the department shall  
14 reimburse a responsible person an amount equal to ~~80%~~ 75% of the corrective action  
15 costs incurred for each discharge site that are greater than \$3,000 and less than  
16 \$400,000.

History: 1993 a. 16, 437; 1995 a. 27, 227; 1997 a. 27, 86; 2001 a. 16.

17 **SECTION 16.** 94.73 (6) (c) (intro.) of the statutes is amended to read:

18 94.73 (6) (c) (intro.) Except as provided in par. (e), the department shall  
19 reimburse a responsible person an amount equal to ~~80%~~ 75% of the corrective action  
20 costs incurred for each discharge site that are greater than \$7,500 and less than  
21 \$400,000 if any of the following applies:

History: 1993 a. 16, 437; 1995 a. 27, 227; 1997 a. 27, 86; 2001 a. 16.

22 **SECTION 17.** 94.73 (15) (a) of the statutes is amended to read:



1           94.73 (15) (a) The department may, by rule, reduce any of the surcharges in ss.  
 2           94.64 (3r) (b) and (4) (a) 5., 94.681 (3), 94.685 (3) (a) 2., 94.703 (3) (a) 2., and 94.704  
 3           (3) (a) 2. below the amounts specified in those provisions. The department shall  
 4           adjust surcharge amounts as necessary to maintain a balance in the agricultural  
 5           chemical cleanup fund at the end of each fiscal year of at least \$2,000,000 but not  
 6           more than \$5,000,000 \$3,000,000, but may not increase a surcharge amount over the  
 7           amount specified in s. 94.64 (3r) (b) or (4) (a) 5., 94.681 (3), 94.685 (3) (a) 2., 94.703  
 8           (3) (a) 2., or 94.704 (3) (a) 2.

History: 1993 a. 16, 437; 1995 a. 27, 287; 1997 a. 27, 86; 2001 a. 16.

9           **SECTION 18. Initial applicability.**

10           (1) AGRICULTURAL CHEMICAL CLEANUP PROGRAM REIMBURSEMENT. The treatment  
 11           of sections 94.73 (6) (b) and (c) (intro.) of the statutes first applies to costs incurred  
 12           on the effective date of this subsection.

13           **SECTION 19. Effective date.**

14           (1) AGRICULTURAL CHEMICAL CLEANUP PROGRAM REIMBURSEMENT. The treatment  
 15           of sections 94.73 (6) (b) and (c) (intro.) of the statutes and SECTION 18 (1) take effect on  
 16           January 1, 2003.

17           (2) AMOUNT DEPOSITED IN ENVIRONMENTAL FUND. The treatment of sections 25.46  
 18           (4) and 94.681 (7) (a) (intro.), 1., and 2. of the statutes takes effect on July 1, 2003.

19           (3) PESTICIDE FEES AND SURCHARGES. The treatment of sections 94.681 (1) (cm),  
 20           (2), (3), (3m), and (3s) of the statutes takes effect on December 1, 2003.

21           (END)

DNate

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-4442/P1dn  
RCT. *hnh*

*Date*

This is a preliminary version of the draft concerning the agrichemical management fund and the agricultural chemical cleanup fund. I wanted to get a draft out for review. I will still need to write an analysis, which will be somewhat time-consuming because of the numerous, technical provisions in the draft. ✓

I think that there will need to be changes to s. 94.681 (6), but I want to consult with Paul Morrison about that.

Please contact me with any questions or redraft instructions.

Rebecca C. Tradewell  
Managing Attorney  
Phone: (608) 266-7290  
E-mail: [becky.tradewell@legis.state.wi.us](mailto:becky.tradewell@legis.state.wi.us)

Insert 1-1

25.465(8)

*am*

(8) The fees collected under s. 94.72 (5) (b) and (6) (a) ~~1. and 2.~~ <sup>*and 2m.*</sup> and (i).

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-4442/P1dn  
RCT:hmh:pg

January 4, 2002

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State of Wisconsin  
2001 - 2002 LEGISLATURE

SOON (in 1/10)

LRB-4442/1

RCF:hmb:pg

Ymv

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

Note

Generate

1 AN ACT <sup>Generate</sup> to repeal 94.681 (7) (a) 2. and 94.72 (6) (a) 1.; to consolidate, renumber  
 2 and amend 94.681 (7) (a) (intro.) and 1.; to amend 25.46 (4), 25.465 (8), 94.64  
 3 (3m) (b) (intro.), 94.64 (4) (a) 1., 94.64 (4) (a) 5., 94.681 (3), 94.681 (3m), 94.72  
 4 (6) (a) 2., 94.73 (6) (b), 94.73 (6) (c) (intro.) and 94.73 (15) (a); to repeal and  
 5 recreate 94.681 (2); and to create 94.681 (1) (cm), 94.681 (3s) and 94.72 (6) (a)  
 6 2m. of the statutes; relating to: fees and surcharges related to pesticides,  
 7 fertilizer, and feed, reimbursement under the agricultural chemical cleanup  
 8 program, transfers from the agrichemical management fund to the  
 9 environmental fund, and the required balance in the agricultural chemical  
 10 cleanup fund.

**Analysis by the Legislative Reference Bureau**

~~This is a preliminary draft. An analysis will be provided in a later version.~~

Analysis  
Insert →

**The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:**

1           **SECTION 1.** 25.46 (4) of the statutes is amended to read:

2           25.46 (4) The moneys specified under s. 94.681 (7) (a) ~~1. and 2.~~ for  
3 environmental management.

4           **SECTION 2.** 25.465 (8) of the statutes is amended to read:

5           25.465 (8) The fees collected under s. 94.72 (5) (b) and (6) (a) ~~1. and 2.~~ and 2m.  
6 and (i).

7           **SECTION 3.** 94.64 (3m) (b) (intro.) of the statutes is amended to read:

8           94.64 (3m) (b) (intro.) An application for a permit under par. (a) 2. shall be on  
9 a form prescribed by the department and shall be accompanied by a proposed product  
10 label and a nonrefundable fee of ~~\$25~~ \$100. The department may require that the  
11 applicant substantiate, by scientific evidence.

12           **SECTION 4.** 94.64 (4) (a) 1. of the statutes is amended to read:

13           94.64 (4) (a) 1. A basic fee of ~~23~~ 30 cents per ton for fertilizer sold or distributed  
14 beginning on ~~October 29, 1999~~ July 1, 2001, and ending on June 30, ~~2001~~ 2006, and  
15 ~~30~~ 45 cents per ton for fertilizer sold or distributed after June 30, ~~2001~~ 2006, with  
16 a minimum fee of \$25.

17           **SECTION 5.** 94.64 (4) (a) 5. of the statutes is amended to read:

18           94.64 (4) (a) 5. An agricultural chemical cleanup surcharge of ~~38~~ 88 cents per  
19 ton on all fertilizer that the person sells or distributes in this state ~~after June 30,~~  
20 ~~1999~~, unless the department establishes a lower surcharge under s. 94.73 (15).

21           **SECTION 6.** 94.681 (1) (cm) of the statutes is created to read:

22           94.681 (1) (cm) "Payment period" means the 12 months ending on September  
23 30 of the calendar year for which a license is sought under s. 94.68.

24           **SECTION 7.** 94.681 (2) of the statutes is repealed and recreated to read:

1           94.681 (2) ANNUAL LICENSE FEE. An applicant for a license under s. 94.68 shall  
2           pay an annual license fee for each pesticide product that the applicant sells or  
3           distributes for use in this state. The amount of the fee is based on sales of pesticide  
4           products during the payment period. An applicant shall pay an estimated fee before  
5           the start of each license year as provided in sub. (3s) (a) and shall make a fee  
6           adjustment payment before the end of the license year if required under sub. (3s) (b).  
7           Except as provided in sub. (5) or (6), the fee for each pesticide product is as follows:

8           (a) For each household pesticide product:

9           1. If the applicant sells less than \$25,000 of the product during the payment  
10          period for use in this state, \$265.

11          2. If the applicant sells at least \$25,000 but less than \$75,000 of the product  
12          during the payment period for use in this state, \$750.

13          3. If the applicant sells at least \$75,000 of the product during the payment  
14          period for use in this state, \$1,500.

15          (b) For each industrial pesticide product:

16          1. If the applicant sells less than \$25,000 of the product during the payment  
17          period for use in this state, \$315.

18          2. If the applicant sells at least \$25,000 but less than \$75,000 of the product  
19          during the payment period for use in this state, \$860.

20          3. If the applicant sells at least \$75,000 of that product during the payment  
21          period for use in this state, \$3,060.

22          (c) For each nonhousehold pesticide product:

23          1. If the applicant sells less than \$25,000 of that product during the payment  
24          period for use in this state, \$320.

1           2. If the applicant sells at least \$25,000 but less than \$75,000 of the product  
2 during the payment period for use in this state, \$890.

3           3. If the applicant sells at least \$75,000 of the product during the payment  
4 period for use in this state, \$3,060 plus 0.2% of the gross revenues from sales of the  
5 product during the payment period for use in this state.

6           **SECTION 8.** 94.681 (3) of the statutes is amended to read:

7           **94.681 (3) NONHOUSEHOLD PESTICIDES; CLEANUP SURCHARGE.** ~~Except for the~~  
8 ~~license years that begin on January 1, 1999, and January 1, 2000, an~~ An applicant  
9 for a license under s. 94.68 shall pay an agricultural chemical cleanup surcharge for  
10 each nonhousehold pesticide product that the applicant sells or distributes for use  
11 in this state. The amount of the surcharge is based on sales of nonhousehold  
12 pesticide products during the payment period. An applicant shall pay an estimated  
13 surcharge before the start of each license year as provided in sub. (3s) (a) and shall  
14 make a surcharge adjustment payment before the end of the license year if required  
15 by sub. (3s) (b). Except as provided in sub. (6) or under s. 94.73 (15), the amount of  
16 the surcharge is as follows:

17           (a) If the applicant ~~sold~~ sells less than \$25,000 of the product during the  
18 ~~preceding year payment period~~ for use in this state, \$5.

19           (b) If the applicant ~~sold~~ sells at least \$25,000 but less than \$75,000 of that  
20 product during the ~~preceding year payment period~~ for use in this state, \$170.

21           (c) If the applicant ~~sold~~ sells at least \$75,000 of that product during the  
22 ~~preceding year payment period~~ for use in this state, an amount equal to 1.1% of gross  
23 revenues from sales of the product during the ~~preceding year payment period~~ for use  
24 in this state.

25           **SECTION 9.** 94.681 (3m) of the statutes is amended to read:



1           94.681 (3m) WOOD PRESERVATIVES; CLEANUP SURCHARGE. An applicant for a  
2 license under s. 94.68 shall pay an environmental cleanup surcharge for each  
3 pesticide product that is not a household pesticide and is solely labeled for use on  
4 wood and contains pentachlorophenol or coal tar creosote that the applicant sells or  
5 distributes in this state. The amount of the surcharge is based on sales of pesticide  
6 products that are not household pesticides and are solely labeled for use on wood and  
7 contain pentachlorophenol or coal tar creosote during the payment period. An  
8 applicant shall pay an estimated surcharge before the start of each license year as  
9 provided in sub. (3s) (a) and shall make a surcharge adjustment payment before the  
10 end of the license year if required by sub. (3s) (b). Except as provided in sub. (6), the  
11 amount of the surcharge is as follows:

12           (a) If the applicant sold sells less than \$25,000 of the product during the  
13 preceding year payment period for use in this state, \$5.

14           (b) If the applicant sold sells at least \$25,000 but less than \$75,000 of that  
15 product during the preceding year payment period for use in this state, \$170.

16           (c) If the applicant sold sells at least \$75,000 of that product during the  
17 preceding year payment period for use in this state, an amount equal to 1.1% of gross  
18 revenues from sales of the product during the preceding year payment period for use  
19 in this state.

20           **SECTION 10.** 94.681 (3s) of the statutes is created to read:

21           94.681 (3s) PAYMENT OF FEES AND SURCHARGES. (a) Before the start of a license  
22 year, an applicant shall estimate the gross revenues that the applicant will receive  
23 from sales of each pesticide product during the payment period that ends during the  
24 year for which a license is sought under s. 94.81 and shall pay the amounts under  
25 subs. (2), (3), and (3m) based on that estimate. At least 15 days before beginning to

1 sell a new pesticide product in this state, a licensee shall estimate the gross revenues  
2 that the applicant will receive from sales of that pesticide product during the  
3 payment period in which the licensee begins to sell the pesticide product and shall  
4 pay the amounts under subs. (2), (3), and (3m) based on that estimate.

5 (b) Before the end of a license year, a licensee shall report to the department  
6 the gross revenues that the licensee received from sales of each pesticide product  
7 during the payment period that ended during the license year, as required under s.  
8 94.68 (2) (a) 2., and shall reconcile the estimated payment made under par. (a) with  
9 the amounts actually due under subs. (2), (3), and (3m) as follows:

10 1. If the amount due based on actual sales is greater than the amount paid  
11 based on estimated sales, the licensee shall pay the additional amount due.

12 2. If the amount due based on actual sales is less than the amount paid based  
13 on estimated sales, the licensee may request the department to reimburse the  
14 licensee for the amount of the overpayment.

15 3. If the amount due based on actual sales equals the amount paid based on  
16 estimated sales, no action is required.

17 (c) 1. Except as provided in subd. 2., if a licensee's total payment due under par.  
18 (b) is more than 20% of the total amount paid under par. (a), the licensee shall pay  
19 a penalty equal to 20% of the total amount due under par. (b). The penalty under this  
20 subdivision is in addition to any late filing fee under s. 93.21 (5).

21 2. Subdivision 1. does not apply to a licensee if the licensee's payments under  
22 par. (a) are based on estimates of gross revenues from sales for each pesticide product  
23 that equal at least 90% of the licensee's gross revenues from sales of the pesticide  
24 product during the preceding year.

1           **SECTION 11.** 94.681 (7) (a) (intro.) and 1. of the statutes are consolidated,  
2           renumbered 94.681 (7) (a) and amended to read:

3           94.681 (7) (a) *License fees.* The department shall deposit all license fees  
4           collected under subs. (2), (5), and (6) (a) 3. in the agrichemical management fund  
5           except as follows: ~~1. The~~ that the department shall deposit an amount equal to \$94  
6           \$60 for each household pesticide and industrial pesticide product for which an  
7           applicant pays a license fee in the environmental fund for environmental  
8           management.

9           **SECTION 12.** 94.681 (7) (a) 2. of the statutes is repealed.

10          **SECTION 13.** 94.72 (6) (a) 1. of the statutes is repealed.

11          **SECTION 14.** 94.72 (6) (a) 2. of the statutes is amended to read:

12          94.72 (6) (a) 2. For commercial feeds distributed in this state beginning on or  
13          ~~after~~ January 1, 2002, and ending on December 31, 2002, a feed inspection fee of 23  
14          cents per ton.

15          **SECTION 15.** 94.72 (6) (a) 2m. of the statutes is created to read:

16          94.72 (6) (a) 2m. For commercial feeds distributed in this state on or after  
17          January 1, 2003, a feed inspection fee of 28 cents per ton or \$30, whichever is greater.

18          **SECTION 16.** 94.73 (6) (b) of the statutes is amended to read:

19          94.73 (6) (b) Except as provided in pars. (c) and (e), the department shall  
20          reimburse a responsible person an amount equal to ~~80%~~ 75% of the corrective action  
21          costs incurred for each discharge site that are greater than \$3,000 and less than  
22          \$400,000.

23          **SECTION 17.** 94.73 (6) (c) (intro.) of the statutes is amended to read:

24          94.73 (6) (c) (intro.) Except as provided in par. (e), the department shall  
25          reimburse a responsible person an amount equal to ~~80%~~ 75% of the corrective action

1 costs incurred for each discharge site that are greater than \$7,500 and less than  
2 \$400,000 if any of the following applies:

3 **SECTION 18.** 94.73 (15) (a) of the statutes is amended to read:

4 94.73 (15) (a) The department may, by rule, reduce any of the surcharges in ss.  
5 94.64 (3r) (b) and (4) (a) 5., 94.681 (3), 94.685 (3) (a) 2., 94.703 (3) (a) 2., and 94.704  
6 (3) (a) 2. below the amounts specified in those provisions. The department shall  
7 adjust surcharge amounts as necessary to maintain a balance in the agricultural  
8 chemical cleanup fund at the end of each fiscal year of at least ~~\$2,000,000~~ but not  
9 more than ~~\$5,000,000~~ \$3,000,000, but may not increase a surcharge amount over the  
10 amount specified in s. 94.64 (3r) (b) or (4) (a) 5., 94.681 (3), 94.685 (3) (a) 2., 94.703  
11 (3) (a) 2., or 94.704 (3) (a) 2.

12 **SECTION 19. Initial applicability.**

13 (1) AGRICULTURAL CHEMICAL CLEANUP PROGRAM REIMBURSEMENT. The treatment  
14 of sections 94.73 (6) (b) and (c) (intro.) of the statutes first applies to costs incurred  
15 on the effective date of this subsection.

16 **SECTION 20. Effective date.**

17 (1) AGRICULTURAL CHEMICAL CLEANUP PROGRAM REIMBURSEMENT. The treatment  
18 of section 94.73 (6) (b) and (c) (intro.) of the statutes and SECTION 19 (1) take effect  
19 on January 1, 2003.

20 (2) AMOUNT DEPOSITED IN ENVIRONMENTAL FUND. The treatment of sections 25.46  
21 (4) and 94.681 (7) (a) (intro.), 1., and 2. of the statutes takes effect on July 1, 2003.

22 (3) PESTICIDE FEES AND SURCHARGES. The treatment of section 94.681 (1) (cm),  
23 (2), (3), (3m), and (3s) of the statutes takes effect on December 1, 2003.

24 (END)

*DN*

**2001-2002 DRAFTING INSERT**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-4442/lins  
RCT:.....

**Analysis insert**

***Fertilizer, feed, and pesticide fees and surcharges***

Current law generally requires a person who manufactures or distributes fertilizer in this state to obtain an annual license from the department of agriculture, trade and consumer protection (DATCP). A person who is required to be licensed must pay several fees and surcharges to DATCP, including a basic fee of 30 cents per ton of fertilizer sold or distributed or \$25, whichever is greater. This bill increases the basic fee to 45 cents per ton for fertilizer sold or distributed after June 30, 2006, but does not change the \$25 minimum fee.

Currently, a person who is licensed to manufacture or distribute fertilizer must also pay an agricultural chemical cleanup surcharge of 38 cents per ton of fertilizer sold or distributed, unless DATCP establishes a lower surcharge by rule. DATCP rules currently specify a surcharge of 38 cents per ton. This bill increases the maximum agricultural chemical cleanup surcharge by 50 cents per ton.

Current law requires a person who sells nonagricultural or special-use fertilizer with low percentages of nitrogen, phosphate, and potash to obtain a permit from DATCP. The fee for this permit is currently \$25. This bill increases the fee to \$100.

Current law generally requires a person who manufactures or distributes animal feed to obtain an annual license from DATCP. A person who is required to be licensed must pay a feed inspection fee of 23 cents per ton. This bill increases the annual feed inspection fee for feed sold after January 1, 2003, to 28 cents per ton or \$30, whichever is greater.

Current law generally requires a person who manufactures or labels pesticides for sale in this state to obtain an annual license from DATCP. The license year begins on January 1. A person who is required to be licensed must pay a number of fees and surcharges when the person applies for a license. The fees and surcharges are based on sales during the 12 months ending on September 30 of the year preceding the year for which a license is sought.

Under this bill, the fees and surcharges paid by a pesticide manufacturer or labeler are based on sales during the 12 month period that ends on September 30 of the license year. When a person applies for a license, the person pays the fees and surcharges based on estimates of sales during that payment period. At the end of the license year, the person pays any balance due based on actual sales or may request a refund from DATCP for any overpayment. If the person estimated that sales would be less than 90% of sales during the preceding year and the person's payment due at the end of the year is more than 20% of the payment made based on estimated sales, the person is also required to pay a penalty for underestimating sales.

Under current law, license fees paid by pesticide manufacturers and labelers are deposited into the agrichemical management fund except that \$94 for each pesticide for which a licensee pays a fee is deposited into the environmental fund and an additional \$30 for each household pesticide for which a licensee pays a fee is

deposited into the environmental fund. Under this bill, all of the license fees are deposited into the agrichemical management fund except that \$60 for each household or industrial (nonagricultural) pesticide for which a licensee pays a fee is deposited into the environmental fund.

***Agricultural chemical cleanup program and fund***

Under the agricultural chemical cleanup program, DATCP pays a portion of the costs of cleaning up spills of agricultural chemicals. Currently, the payment equals 80% of eligible costs that exceed a deductible and are less than a maximum amount. This bill reduces the reimbursement rate under the agricultural chemical cleanup program from 80% to 75%.

Current law authorizes DATCP to reduce surcharges that are deposited into the agricultural chemical cleanup fund below the amounts specified in the statutes. The law requires DATCP to adjust the surcharge amounts as necessary to maintain a balance in the fund at the end of each fiscal year of at least \$2,000,000 but not more than \$5,000,000. This bill eliminates the minimum required fiscal year-end balance for the agricultural chemical cleanup fund and requires DATCP to maintain a year-end balance of not more than \$3,000,000.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-4442/1dn  
RCT: *hesh*

*# Date*

The only difference between this version and the preliminary version is that this version has an analysis.

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**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-4442/1dn  
RCT:hmh:rs

January 11, 2002

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# State of Wisconsin

## LEGISLATIVE REFERENCE BUREAU

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STEPHEN R. MILLER  
CHIEF

LEGAL SECTION: (608) 266-3561  
LEGAL FAX: (608) 264-6948

January 11, 2002

### MEMORANDUM

To: Representative Ott

From: Rebecca C. Tradewell, Managing Attorney

Re: LRB-4442/1 Changes concerning the agricultural chemical cleanup fund and the Agrichemical management fund

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY     JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-7290 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.