

Rule
DATCP - 01-021
Fees

50%/50% APR / Fees

01-021-pt 02
50

(0 or near - 0 by June 02)

(# 2-5 mil.) statutory req. bal.

retro activity a problematic.

→ w/o rule.

(Mark. Deleted.)

3.1-3.4 annually.
1.8 mil claims in-pending.

250 cleanups - @ some stag cleanup.

object

2 - remove retroactivity

Recommend 13.10 to DATCP.
for - retro active levels.

Change statutory - levels.

*

Al - not
in favor

~~Move money from Ag Mgt. Fund.~~

Form advisory group. (ACCP)

2317 International Lane, Ste 115
Madison, WI 53704-3129
Phone: (608) 249-4070
Fax: (608) 249-5311

**Wisconsin Fertilizer &
Chemical Association**

Fax

To: Rep. Al Ott From: Betsy Abner
Fax: 608 282-3603 Pages: 2
Phone: _____ Date: _____
Re: _____ CC: _____

Urgent For Review Please Comment Please Reply Please Recycle

• Comments:

Al,

I decided to have crow for supper and just faxed out the enclosed notice to our members. I am afraid that they wouldn't see the correction in the newsletter at the end of the month. I didn't include a request for anyone to call you back because I wasn't sure that you still wanted to talk to them. I did make a note in my file to double check all numbers and to encourage people to leave their phone numbers so the legislator can call them back.

Betsy

WFCA Alert

August 16, 2001

A free service to the Members of the Wisconsin Fertilizer and Chemical Association
2317 International Lane, Suite 115, Madison, WI 53704, Ph: 608-249-4070 Fax: 608-249-5311

Correction and clarification

The Alert faxed to you earlier this afternoon contained an incorrect number.

The first sentence should have read, "The DATCP has proposed that a .75% surcharge on pesticides be retroactive to October 1, 2000, even though the industry has not been able to collect the surcharge on sales made during that time."

We incorrectly stated the percent to be 1.3%. The rule will reinstate the surcharge to 1.3% for the 2002 registration year, but only .75% will be retroactive to October 1, 2000.

Representative Ott was asked to kill only the retroactive portion of the surcharge. The WFCA is not opposing the reinstatement of the fees to the level they were at before the current surcharge moratorium to .2%. We only object to making any fees retroactive.

Our apologies to the Department of Agriculture, Trade and Consumer Protection and to Representative Ott for any difficulties this error may have caused them and their staff.

If you have any questions about this please feel free to Betsy at 608-249-4070 or Amy at 608-294-5450.



State of Wisconsin
Scott McCallum, Governor

Department of Agriculture, Trade and Consumer Protection
James E. Harsdorf, Secretary

FAX COVER SHEET

DATE:	8-16-01
TO:	Representative David Ward
FROM:	Ned Zuelsdorf
SUBJECT:	Pesticide Fee Letter
PHONE NUMBER OF SENDER:	224-4550
# OF PAGES (including cover page):	5

WI Dept. of Agriculture, Trade & Consumer Protection
Agricultural Resource Management Division
Phone Number: (608) 224-4500
FAX Number: (608) 224-4656

If any pages need to be resent, please call the sender at the above number. Otherwise, we will assume this transmittal has been completely received.

Thank you.

MESSAGE:

David, attached is the letter we sent to all
pesticide manufacturers and labelers last December.

I've also attached short summaries of long term
needs of the fund and of the implications for
reimbursement in 2002 if the rule is not implemented.

We shared these with Representative Ott yesterday. Please
let me know if you need more info.

File

Napralla, Erin

From: Kestell, Steve
Sent: Thursday, August 16, 2001 11:54 AM
To: Napralla, Erin
Subject: RE: Agriculture Committee Public Hearing/Executive Session Notice - CANCELED

AI,

While I understand the need to keep the program funded I strongly oppose the retroactive nature of the rule. Can't we do something about that part of the rule?

Steve Kestell

Call him 6-8530

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

From: Napralla, Erin
Sent: Wednesday, August 15, 2001 1:25 PM
To: Stigler, Ken; Krieser, Steve; *Legislative All Assembly; *Legislative All Senate; Nussbaum, Jody; Hauser, Matt; Neher, Nicholas J DATCP
Subject: Agriculture Committee Public Hearing/Executive Session Notice - CANCELED

<< File: E20010816001_.doc >>

Home: 920-565-2842



MAILING ADDRESS: 102 Maple Street
 MAIN OFFICE: Route 2 County M, Evansville, WI 53536
 Phone 608-882-2620 • Toll-Free 1-800-652-6972 • Fax 608-882-2635

BELLEVILLE LOCATION
 20 Park St.
 Belleville, WI 53508
 (608) 424-3651

ALBANY LOCATION
 P.O. Box 321
 Albany, WI 53502
 (608) 862-3103
 1-800-305-9676

BRODHEAD LOCATION
 1105 West 4th Ave.
 Brodhead, WI 53520
 (608) 897-2646
 1-800-622-6375

BELLEVILLE TOWNMART
 428 River St.
 Belleville, WI 53508
 (608) 424-6322

JANESVILLE LOCATION
 3304 Rockport Rd.
 Janesville, WI 53545
 1-800-924-7864

\$ 2.3 mil ✓

Dear Representative

Please do not propose the

1.3% surcharge to be retroactive
 .75%

Our business can not afford
 over \$ 23,000 on product that has
 already been sold and cannot collect fees
 from farmers that are already strapped
 financially!

Scott Smith

Agronomy Mgr
 608 882-2650
 FAX 2635

8/16/01

WFCFA Legislative Alert

August 16, 2001

A free service to the Members of the Wisconsin Fertilizer and Chemical Association
2317 International Lane, Suite 115, Madison, WI 53704, Ph: 608-249-4070 Fax: 608-249-5311

Help Needed Immediately

To stop a retroactive Agricultural Chemical Cleanup Program surcharge

Issue

.75 *(9.2) base*
The DATCP has proposed that the 1.3% surcharge on pesticides be retroactive to October 1, 2000, even though industry has not been able to collect the surcharge on sales made during that time.

At a public hearing on Thursday August 2, Representative Al Ott, chair of the Assembly Agriculture Committee promised industry that his committee would kill the increase. He scheduled a meeting of the committee for today, August 16, to do that. **Yesterday afternoon he canceled the meeting and has reneged on his promise.**

Pick up the Phone Now

Amy Winters has met with Assembly Speaker, Scott Jensen's staff and asked for their help. Speaker Jensen has the ability to help us kill the retroactive portion of the increase. We need you to call the speaker's office and emphasize how important this is and that you support it. Call right now, time is of the essence.

- 1) Speaker Jensen's phone is 608-266-3387 if he is not available ask to speak to his staff person Adam. You may also fax your comments to Speaker Jensen at 608-266-5123.
- 2) Attached is a list of Assembly Ag Committee members. Phone calls or faxes to them would also be helpful, especially if your legislator is on the committee.

Background

When the Ag Chem Cleanup Program began in 1993 it was funded 52% by a surcharge on chemicals, licenses and fertilizer and 48% by tax dollars (GPR). It quickly rose to an unspent balance of over \$8 million and, at industry's request, a fee moratorium decreased the surcharges until the fund had been spent down. At the same time the legislature took back the unspent GPR, then they took interest generated by the fund and finally they ceased contributing tax dollars and stole \$2 million dollars of surcharge money from the fund. For this reason the fund is projected to be out of money by the end of 2002.

To keep the fund operational the Department of Agriculture, Trade, and Consumer Protection (DATCP) has introduced a rule change to increase the surcharges to their level before the moratorium.

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August 16, 2001

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Dear Representative

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Our business can not afford
 over \$23,000 on product that has
 already been sold and can not collect fees
 from farms that are already strapped
 financially!

Scott Smith

Agronomy Mgr
 608 882-2650
 FAX 2635

8/16/01

Pesticide Rule

8/15/01

11:30 AM - @ 1 PM Conference call with office
AI, Mark P, Mike & Ned from Pottery

1.5 M expected to be collected with Rule

1.3 M is the retroactive amount

200,000 other fees

- Don't want to give up even the smallest amount but money is really in the retro amounts

retroactivity - no gain if change dates
since if start Sept '01 (now) will
want towards next fees.

If rule not passed, delay 1.5 M in
reimbursement

Plus interest costs = $\$1$ 50-100,000 in 2002

2002 claims would top into 2003

this deficit when claims not paid,
yet interest generated + costly.

to keep up w/ statutory requirements

2 M needed

if we have a limit on retro stuff - we doing
ever more of that

fairer to keep the retro stuff
out rather than
obey statute in legis eyes.

Other stat. reg. have been forgone.

Manufacturers are affected the most by
the rule

= Initially discussion was to do a statute
to modify rule & take out the
retroactive element.

However through the discussion it became
obvious to AI that that may not be the
answer.

Neither was objecting to the rule altogether.

So what was determined best is that
we let the rule go & not act on it at all.

Datcp will then go ahead & implement it
then we would go ahead and work out
long term statutory changes.
Which would address the retro issue.

Chairman:
Agriculture Committee



Member:
Conservation & Land Use
Consumer Affairs
Natural Resources
Utilities

Al Ott

State Representative • 3rd Assembly District

TO: MEMBERS OF THE ASSEMBLY COMMITTEE ON AGRICULTURE
FROM: Representative Alvin Ott, Chair
RE: Rules Relating to the Agricultural Chemical Clean Up Program Surcharge Fees
DATE: August 15, 2001

As you know, I have cancelled the meeting of the Assembly Committee on Agriculture scheduled for Thursday, August 16, 2001. The only issue before the committee at that meeting was to be the potential for a committee request to modify Clearinghouse Rule 01-021, relating to the Agricultural Chemical Clean Up Program surcharge fees. The issue in the rule relates to SECTIONS 1 and 2, which impose fees on manufacturers based on product sales that occur prior to the effective date of the rule. I would like to tell you why I decided to cancel the hearing and to let you know what I plan to do in the future.

As you will recall from my comments at the August 2nd hearing, I am sensitive to any proposal to impose fees or other requirements retroactively. There is an important issue of fairness here and, under most circumstances, I do not support retroactive requirements. However, it is done occasionally. Ultimately, the need to do so in this instance was created by the Legislature in its taking of funds from the program for other purposes. Although it is not an ideal solution to impose fees retroactively, all of the issues related to this subject lead me to believe that letting this rule proceed is the best alternative.

The following are some of my reasons for making this decision:

- Agricultural producers, along with the environment, are the beneficiaries of this program. The program is now under-funded and payments are being delayed. This program should be sufficiently funded to meet the needs of the producers, and the rule makes progress toward that goal.
- The rule was offered by the Department of Agriculture, Trade and Consumer Protection (DATCP) Board as their solution to a short-term funding problem in the Agricultural Chemical Clean Up Program. The board members made this decision with care and in what they believe are the best interests of the agricultural community in Wisconsin. I respect their decision to take a leadership role on this issue.
- The Legislature took "surplus" funds from this program in the past, which has helped to create the problem this program faces today. There does not appear to be any chance now to obtain general purpose revenue funds for this program. Therefore, additional fees are the only way to keep the program solvent.
- Any delay in collecting fees for this program will only delay the time when the fund can be made solvent and will require larger fee increases later than would be necessary if the rule proceeds now.

Upon considering all of these issues, it is my opinion the rule should proceed. I hope that members of the committee will support me in this decision. Of course, if you have any questions, I would be happy to discuss them with you.

It is also clear that even if this rule proceeds, statutory changes are going to be necessary. DATCP plans to consider statutory changes to the fees for the Agricultural Chemical Clean Up Program in the 2003 budget. I have made a commitment to draft legislation as soon as possible and to introduce it in the current session. Overall, the purpose of the legislation will be to increase fees to the amount necessary to fully fund the program and to avoid any future need to impose fees retroactively. This bill, when it is scheduled for a public hearing, will give members of the committee an opportunity to revisit all of these issues and have a thorough discussion of the subject.

AO:tr



**WISCONSIN LEGISLATIVE COUNCIL
STAFF MEMORANDUM**

TO: REPRESENTATIVE ALVIN OTT

FROM: David L. Lovell, Senior Analyst

RE: Clearinghouse Rule 01-021, Relating to Agricultural Chemical Clean-Up Fund Fee Surcharges; Options for Committee Action and Their Potential Fiscal Impacts

DATE: August 14, 2001

On August 2, 2001, the Assembly Committee on Agriculture and the Senate Committee on Labor and Agriculture held a joint hearing on Clearinghouse Rule 01-021, relating to Agricultural Chemical Clean-up Fund fee surcharges. At the hearing, concern was expressed regarding portions of the rule and various courses of action were discussed, but the discussion ended with some uncertainty regarding the potential fiscal impacts of those actions. This memorandum provides information regarding those fiscal impacts.

BACKGROUND

Under current law, the Agricultural Chemical Clean-Up Fund is funded through surcharges on fees paid by various parties involved in the manufacture and sale of agricultural chemicals. Also under current law, the collection of fee surcharges is suspended until January 1, 2003. CR 01-021, proposed by the Department of Agriculture, Trade and Consumer Protection (DATCP), would resume the collection of the fee surcharges on January 1, 2002, one year ahead of the schedule under current law.

The attached table shows the revenues that are generated by fee surcharges. It shows the source and basis of the surcharges and the revenues that would be deposited in the Agricultural Chemical Clean-Up Fund in 2002 under current law, in 2002 if CR 01-021 takes effect and in 2003. (CR 01-021 does not affect the revenues that will be collected in 2003.)

Rows A and B of the table show the revenues from surcharges on fertilizer production and sales. These amounts are not affected by CR 01-021.

Rows C to E show the revenues from surcharges paid by pesticide dealers and applicators. These are surcharges that are added to annual license fees.

Rows F to H show the revenues from surcharges paid by pesticide manufacturers and labelers. These fees are in three tiers, based on the volume of sales of the manufacturer or labeler in the year before the surcharge is paid: manufacturers and labelers who have less than \$25,000 in annual sales must pay a surcharge of \$5; those with sales between \$25,000 and \$75,000 must pay a surcharge of \$170; those with sales in excess of \$75,000 must pay a surcharge equal to a specified percent of those sales. Manufacturers and labelers in the third tier collect the revenues for payment of the surcharge from their customers at the time that the products are sold. Those in the other tiers do the same and supplement the revenues by whatever amount is necessary to equal the required amount of the surcharge. (DATCP staff indicate that the surcharge amount for the two lower tiers is consistently more than the percentage of sales required for the third tier and so the amount collected does not exceed the amount of the surcharge.)

Because the fee surcharges collected from pesticide manufacturers and labelers are based on the past year's sales, the manufacturers and labelers have observed that reinstatement of the surcharges now, at the end of the year on which the first surcharge will be based, does not allow them the opportunity to collect those revenues from customers at the time of sale. For this reason, they are characterizing the surcharges that would be collected in 2002 as "retroactive" and are suggesting that this surcharge not be reinstated until 2003, as provided under current law. In response, DATCP staff note that they informed the manufacturers and labelers that the surcharge would likely be reinstated in 2002, but that DATCP did not know the level at which the surcharge would be set. They indicate that they advised the manufacturers and labelers to collect the required revenues in anticipation of this, but that they do not know how many manufacturers or labelers did so.

OPTIONS AND THEIR FISCAL EFFECTS

Several courses of action for the legislative committees reviewing CR 01-021 were discussed at the August 2 hearing.

First, the committees could take no action and allow the DATCP to promulgate the proposed rule. If the rule were promulgated as proposed, the fee surcharges, including the surcharges on fertilizer production and sales, would generate \$2,059,550 in revenues for the Agricultural Chemical Clean-Up Fund in 2002, as shown in the table. Any manufacturers and labelers who had collected revenues at the time of sales over the past year, in anticipation of this rule change, would pay the surcharge from those revenues. Those who had not done so would be required to pay the surcharge from other revenues in their control. Presumably, they would recover those costs in the price of products sold in the next year, at the same time that they would be collecting funds from the same customers for payment of the next year's surcharge.

Second, the committees could object to the rule in its entirety. If the objection were ultimately upheld by the Joint Committee for Review of Administrative Rules or if the review process extended beyond the point when DATCP could promulgate the rule by January 1, 2002, the only revenues that would be generated for the Agricultural Chemical Clean-Up Fund in 2002 would be the \$500,000 generated by the surcharges on fertilizer production and sales. Under this option, the state would forego \$1,559,550 compared to the first option.

Third, the committees could request that DATCP modify the rule to delay the reinstatement of surcharges paid by pesticide manufacturers and labelers until 2003, as under current law, while

reinstating the surcharges paid by pesticide dealers and applicators in 2002. If DATCP agreed to such a modification, the Agricultural Chemical Clean-Up Fund would receive \$691,650 in new revenues in 2002 from the surcharges on fertilizer production and sales and on pesticide dealers and applicators. Under this option, the state would forego \$1,367,900 compared to the first option. This option would provide the state only \$191,650 more than the option of objecting to the entire rule.

Under either the second or third option, the committees could also go on record in support of a request by the DATCP under s. 13.10, Stats., for a supplement of general purpose revenues to the Agricultural Chemical Clean-Up Fund to replace the foregone revenues. This request could be justified in part on the fact that there have been several transfers of funds from the Agricultural Chemical Clean-Up Fund to the general fund in recent years. As was noted in the committee's discussion, the likelihood of such a request being granted and the impact of the committee's support of such a request on that outcome are both unknown.

If you have any questions regarding CR 01-021, please contact me at the Legislative Council Staff offices.

DLL:wu;ksm

Attachment

Agricultural Chemical Clean-Up Fund Revenues

Surcharge Source	Units	2002 Revenues Under Current Law		2002 Revenues Under CR 01-021		2003 Revenues	
		Surcharge Amount	Revenue	Surcharge Amount	Revenue	Surcharge Amount	Revenue
A. Fertilizer License	300 Licenses	\$20	\$6,000	\$20	\$6,000	\$20	\$6,000
B. Fertilizer Tonnage	1,300,000 Tons	\$0	\$494,000	\$0	\$494,000	\$0	\$494,000
C. Restricted-Use Pesticide Dealer	420 Licenses	\$0	\$0	\$40	\$16,800	\$40	\$16,800
D. Pesticide Application Business License	1,270 Licenses	\$0	\$0	\$55	\$69,850	\$55	\$69,850
E. Individual Pesticide Applicator License	5,250 Licenses	\$0	\$0	\$20	\$105,000	\$20	\$105,000
F. Pesticide Registrations Sales from \$0 to \$25,000	3,600 Products	\$0	\$0	\$5	\$18,000	\$5	\$18,000
G. Pesticide Registrations Sales from \$25,000 to \$75,000	220 Products	\$0	\$0	\$170	\$37,400	\$170	\$37,400
H. Pesticide Registrations Sales > \$75,000	175,000,000 Gross Sales	0%	\$0	0.75%	\$1,312,500	1.1%	\$1,925,000
TOTAL			\$500,000		\$2,059,550		\$2,672,050

Source: Department of Agriculture, Trade and Consumer Protection

Prepared by:

David L. Lovell, Senior Analyst
 Wisconsin Legislative Council Staff
 August 14, 2001
 DLL:wu

Pesticide Rule

8/15/01

message from Dave to call from Monday the 6th ...
Conversation w/ Dave (Leg. C.)

- What does AI want to do with it? \Rightarrow call AI
+ let Dave know ASAP
- Dave has concerns over the "objecting" to rule in its entirety
Rule talks about not only retroactive fees but also upfront fees.
If we object to rule, no fees will be collected in Jan '02
Is that what AI wants?

Mick from Dater is out of town...

- If we want "modification" we need to notify DATER + get their reply back by the end of our review period which is 8/17/01 FRIDAY.

\Downarrow Dave recommends
get letter ready at time of exec + ask Dater to respond before end of Friday.

8/16/01

talk to AI: (try Patrowsky + Zueldorf)

- Does not want to delay rule or delay the fees at all.
- Just of the hearing was that industry is upset with the "retroactive" fees which the industry would need to pay now, yet has no way of recovering the costs. Seek 1300 on Retro \$ = Recieve Dater to ...

8/10/01 Spoke w/ Dave & mae

Talked about % of sales as it applies to the "retroactive" status.
If take away the retroactive fee base, the companies with lesser sales still need to pay purchase.
The ones that are covered by .75% of gross sales > \$75,000 fee, would get away from paying. Yet this is generating lots of \$.

In general If we object to the rule in general -
lose a lot of the fees since the rule basically has it all starting in 2002 not 2003.

If we ask for modification to take out retroactive out - how will this work?

Except for purchase sales, fees & purchase, license fees would start in Jan '02 (actually Dec '01)

8/10/01 left message for Lisa to find out their views.

8/10/01 Spoke w/ Mark Patrovsky / Leg. C.

Al basically needs to touch base with Dattop to go over how we want these changes to work. Have agreement prior to E&E.

8/13/01 Lisa - Hansen is really thrown w/ the money situation & he does not want to end the program if he isn't up...

Mon 8/13/01

Spoke with Al-

Does not want to reject the rule in its entirety because does not want to hold up fee collection. Does not want to hold back implementation of the rule either but feels the retro stuff must be addressed

Modify rule with the following:

- ① Change dates used to figure out surcharge on % of sales

start in Sept 2001; Not go back to year 2000

Make - make notes less specific - instead request Dates, consider modifications that fee changes may occur, not based on sales that already occurred.

- ② Instant Dates to go to 13.60 ft. Finance to recover \$ contributed by industry & intended to support the Cleanups fund, but since then taken out by Legis. Act

No place in the motion, separate communication in nature of letter

Suggest consider to go 13.60 for the effort

- ③ Recommend that an advisory group be put in place as soon as possible to address funding issues. Suggest including a member of the Assembly of Cook as one of the members of the advisory board.

? lock box security? ↑

? transfer \$ from DMR?

Al says NO - ? transfer \$ from Az Chem Mgmt Fund? →

Al says NO - ? change statutory Reg. for more fees? →

item 2 & 3
→ letter to Harold by phone
→ talk to Dave on Thursday
→ Motion on 2/12/01
→ 2/12/01 Dave agrees by phone
→ 2/12/01 Dave agrees by phone
→ 2/12/01 Dave agrees by phone
→ Simple letter w/ notes
Mark

8/13/01 Spoke w/ Amy Winter -

She is also confused by Nick's comments at hearing that if committee simply objects to the rule, nothing will be affected really because by statute it will be effective soon enough except for the retroactive part which committee has problem with.

She wants to eliminate the retroactive sales thing, but not objecting to all fees. She spoke w/ Sec. Handorf & they seem to want to work things out & will provide new numbers.

She seems to think that the fund will not be as deep hole as predicted. Both she & sec. H. want fund "solvent"

She also wants to lower the fees from 1.5% first year...

I told her we are modifying not completely objecting...

Call Mark Patronsky 6-9280 again Mon 8/13 4:00M - Kill call Temporary money
Call AI - 920/989- ^{920/} call 450-5075

- Told her the latest stuff from Amy.
- We should touch base with Peter...

Q. What is meant by retrospective?

~~8/13/01~~ Tuesday
8/13/01 Call Mark Patronsky

point out on page 3 -

Postscript Surcharge is based on sales during 12 months
ending Sept 30 of preceding year

to obtain info for 2002 - May to Dec 01

for sales Sept 2000 - Sept 2001

~~Does this apply to all purchases to be made from 2002?~~

Q - All other fees would be in effect 2002. (Rule.) yes.

Q - Money that was taken out by J.F. - How much? Changes?

How can we suggest modification? to reflect this change?
thoughts?

⇒ He'll draft the motion see other notes in Al's comments
dated 8/13/01.

8/13/01 later afternoon. Al discussion in office. Memo from Dave Lovell (leg)
I come to the office for a bit



Wisconsin Federation of Cooperatives

131 West Wilson Street, Suite 400, Madison, WI 53703
Phone: 608.258.4400 Fax 608.258.4407 www.wfcmac.org wfcmac@wfcmac.org

August 2, 2001

TO: Members, Senate Committee on Labor & Agriculture
Members, Assembly Committee on Agriculture

FROM: John Manske, Director of Government Relations

RE: Clearinghouse Rule 01-021, relating to Pesticide Fee Surcharges for
Agricultural Chemical Cleanup Program (ACCP)

Background:

The Wisconsin Federation of Cooperative's (WFC) involvement with the Agricultural Chemical Cleanup Program (ACCP) extends back to when we were advocating for the creation of the program. Our farm supply cooperatives were early believers that a state program would be a necessary step in creating a public-private partnership to clean up contaminated agronomy sites. The thought was Wisconsin would follow Minnesota's first statewide government-instituted agronomic site remediation program. Another hope was that lessons learned from Wisconsin's costly PECFA program would not be replicated in an ACCP. The goals of program advocates included helping to safeguard and improve the environment in rural Wisconsin at the same time that businesses and individuals would receive assistance in their remediation efforts. The Legislature approved the proposal in the early 1990s. The Wisconsin program justifiably began with a legislative commitment to help support the program with approximately 50% GPR funding.

WFC continues to support the ACCP as a necessary program to help property owners with the costs of cleaning up these contaminated sites. Cooperatives, other farm supply businesses and individual land owners have shared over \$13.5 million in payments from the program since it began reimbursing eligible claimants in fiscal year 1994-95. If our foresight was as keen as our hindsight, no one in state government or the "ag chem" industry would have recommended collecting as much as was collected for the ACCP from the program's beginning. A large and growing ACCP fund balance, combined with a tight state general fund situation, resulted in successive legislative raids from the segregated account, and withdrawal of partial-GPR funding. Now, in 2001, DATCP projections are that even with the surcharge adjustments being advanced in Clearinghouse Rule 01-021, "annual reimbursement claims will exceed new surcharge revenues by approximately \$400,000 to \$700,000 per year."

Comments on the current ACCP situation and the Clearinghouse Rule 01-021:

- WFC supported the proposed ATCP 29 fee changes when they were at public hearing March 28 of this year. We also pledged to work with legislators in efforts to restore

state general funds to the ACCP. Needless to say, efforts to get legislative support for restoring GPR to this program during the recent budget action came up short. WFC and its members continue to believe the program merits both public and industry funding sources.

- We do not want the fund to go into deficit. Our experience with members who had to wait up to three years for PECFA program reimbursement leads me to believe that no one who supports the ACCP would desire any significant reimbursement backlog for the program.
- It cannot be certain that DATCP projections for program funding and reimbursement will mirror actual outcomes, though the opportunity for wide variances in projections and results is now less likely since all older eligible claims have been submitted for reimbursement.
- Many WFC members are not pleased with the fact that product sales fees are to be collected retroactively on pesticides already sold. It is anything but a good business practice and it reflects a fault of the law and collection system whenever fees are "turned back on," as is being proposed in CR 01-021. The system results in "somebody holding the bag" for a fee that has legal standing after the product is already sold.

WFC supports Clearinghouse Rule 01-021, though we must communicate member disagreement with the retroactive application of the pesticide product fee. It is unclear if there is a fiscally and politically viable solution to that concern that also **ensures** adequate funding for the ACCP program for the biennium.

Thank you for considering my comments on behalf of our farm supply members.



WISCONSIN FERTILIZER & CHEMICAL ASSOCIATION

2317 International Lane, Suite 115, Madison, WI 53704-3154 Phone (608) 249-4070 Fax (608) 249-5311

August 2, 2001

BETSY AHNER
Executive Director

BOARD OF DIRECTORS:

HAROLD REDDY, President
Reddy Ag Service
3984 Commercial Street
Stitzer, WI 53825
Phone: 608-943-8353

TIM SANDERS, Vice-President
DeLong Company
1 Delco Drive
Clinton, WI 53525
Phone: 608-676-2255

STEVE SHELINE, Treasurer
Hartung Brothers, Inc.
6813 Helena Road
Arena, WI 53503
Phone: 608-588-2536

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Aventis
5437 N Cypress Drive
Milton, WI 53563
Phone: 608-741-7844

JIM BEACH
Syngenta
825 Hanksfield Place
Prairie du Sac, WI 53578
Phone: 608-643-0544

CHUCK KIEFER
Agrilience
PO Box 64089
St. Paul, MN 55164
Phone: 651-451-5421

DENNIS NICOLAI
Farmer's Co-op Supply & Shipping
136 E Elm Street
West Salem, WI 54669
Phone: 608-786-1100

KENT SYTH
Ag Systems
290 Lynne Trail
Oregon, WI 53575-3424
Phone: 608-835-2341

RANDY VOLLRATH
Olsen's Mill
N2084 Hwy 49
Aurora, WI 54923
Phone: 920-361-2750

DOUG YAPP
Van Diest Supply Company
N34448 River Valley Road
Independence, WI 54747-9019
Phone: 715-985-2170

DAN ZIERKE
FS Cooperative
PO Box 98
Amherst Junction, WI 54407-0098
Phone: 715-824-3151

KEITH KELLING, Advisor
UW-Dept. of Soil Science
1525 Observatory Drive
Madison, WI 53706
Phone: 608-263-2795

JOHN WEDBERG, Advisor
UW-Dept. of Entomology
237 Russell Labs
Madison, WI 53706
Phone: 608-262-3226

RE: Clearinghouse Rule 01-021 – Agricultural Chemical Cleanup Fund

Testimony by Betsy Ahner, Executive Director,
Wisconsin Fertilizer and Chemical Association

The Wisconsin Agricultural Chemical Cleanup Program is an excellent example of a well intentioned, carefully crafted, industry supported program that has gone awry due to legislative tinkering and broken promises.

The purpose of the Ag Chem Cleanup Program is to protect Wisconsin's groundwater by providing the means to clean up chemical spills on farms, ag dealerships and even golf courses. The funding was split almost 50 – 50 between agriculture and the public, which was represented by GPR dollars. The writers of the program observed the problems that PECFA was having and designed a very conservative cost share program that would avoid PECFA's financial dilemma.

Unfortunately, they did their job too well, and in 1995 the program had a fund balance of over \$8 million and climbing. It became a very tempting pot of money for a legislature that was struggling to maintain a balanced budget.

The first raid on the fund occurred when, over our protests, the finance committee took back all unspent GPR. Then they took back the unspent GPR and \$800,000 in interest. Finally, in the last budget they totally eliminated the GPR and took \$2 million dollars from the principal. It was \$2 million dollars right out of the pockets of Wisconsin's farmers.

Now in the middle of the worst crop year of the decade, we are faced with a retroactive reinstatement of the ACCP surcharge. This surcharge will cost Wisconsin agriculture an estimated \$1.5 million dollars. You might argue that the farmers won't be paying the bill, the chemical companies will. But the chemical companies will pass it down to the distributors, who will pass it to the dealers, who will pass it to the farmers, who are going out of business at an alarming rate.

The WFCA opposes the retroactive surcharge and asks that you object to this portion of the rule.



Wisconsin Agribusiness Council, Inc.

119 East Main Street • Madison, WI 53703 • Phone (608) 294-5450 • Fax (608) 294-5451 • www.wisagri.com

JOINT HEARING OF THE SENATE AND ASSEMBLY COMMITTEES ON AGRICULTURE August 2, 2001

Testimony of Amy Winters, Vice President of Government Relations for the Wisconsin Agribusiness Council and contract lobbyist for the American Crop Protection Association, the Wisconsin Fertilizer and Chemical Association and the Wisconsin Christmas Tree Producers.

Chairman Ott, Chairman Hansen, members of the committee, thank you for the opportunity to testify on clearinghouse rule 01-021 pertaining to pesticide license fee surcharges.

Although we are very supportive of the Agricultural Chemical Clean-Up Program (ACCP), we are agitated about how the fund has been handled since the programs inception in 1993 and are vehemently opposed to the retroactive nature of the fee increase in the clearinghouse rule.

The legislature's action to remove \$2 million in surcharge fees and transfer it to the general fund and depleting all the GPR from the fund in the last biennial budget was an unconscionable act; to now increase the fees and make them retroactive is intolerable.

The industry is already facing a \$1 million fee increase effective in February of 2003 for the agrichemical management fund (ACM). The combined ACCP surcharges and pending ACM fee increases would be a combined fee increase of over 60%. This is an undue hardship on the industry and is contrary to the original legislative intent of the ACCP program that was set up as a cost share program with matching state funds.

We request that the committees take action to oppose the retroactive nature of this fee and refer the rule to the Joint Committee for the Review of Administrative Rules. As Secretary Harsdorf has agreed to do everything he can to prevent the rule from being retroactive, it is only fair to the companies and producers that have provided funding for this program to have the rule reviewed further to prevent unnecessary economic hardship.

The ACCP program has initiated more than 400 long-term cases and another estimated 450 commercial sites still need to be investigated. Of those already initiated, 180 have been cleaned up and closed, and the remaining 220 cases are currently being addressed. The program also cleans up about 75 one-time agri-chemical spills, such as traffic accidents and equipment failures, each year. This program is important to the economic well being of the agricultural industry and to the health of Wisconsin's environment. We implore you to show Wisconsin producers and agribusinesses that the legislature will live up to its commitment to this program.

In addition to our objection of the retroactive aspect of the rule, we also request that the ag committees review the program structure to determine what safeguards may be put in place to

protect the fund in the future and to determine if the current statutory requirement that the fund remain between \$2 million and \$5 million is still appropriate.

No other state has product registration fees as high as ours. The fee in 42 states ranges from 15.00 to \$200.00 per product. Wisconsin fees are \$300 to \$3000 per product registered. In Illinois, the total annual cost to register 30 popular pesticides is \$3,000, in Wisconsin; the cost is \$1.2 million! This difference is compounded by comparing our 3.4 million acres of corn in Wisconsin with Illinois's 10.9 million acres of corn. That is 3 times the acres for 0.125% of the crop protection cost.

Thank you for your time and attention to this important issue.

**Testimony of
Nicholas J. Neher, Administrator
Agricultural Resource Management Division
Of the
Wisconsin Department of Agriculture, Trade and Consumer Protection
Before the
Assembly Agriculture Committee, and the
Senate Labor and Agriculture Committee**

**Clearinghouse Rule #01-021
Agricultural Chemical Cleanup Program Surcharge Fees**

Good morning. I am Nick Neher, Administrator of the Agricultural Resource Management Division of the Wisconsin Department of Agriculture, Trade and Consumer Protection. My Division is responsible for administration of the Agricultural Chemical Cleanup Program. Thank you for the opportunity to appear before you today.

Cleanup of fertilizer and pesticide spills is needed. This is a point of general agreement and this will continue regardless of this rule. What this rule is designed to assure is that funding is available for those facilities that are undergoing a cleanup. Without this rule change the fund will be at or near a zero balance by next June. Those facilities involved in cleanups, cleanups they know they need to do, will feel the effect very soon.

Today's rule was prepared under the direction of our current statute. This statute directs us to adjust industry surcharges as necessary to maintain a fund balance between \$2 million and \$5 million, while it also establishes maximum surcharge amounts. During the past fiscal year our balance dropped rapidly to near the minimum. This rule is necessary to begin recharging the depleted fund.

This rule will generate \$1.56 million in the current fiscal year. This amount is consistent with the rule we brought to public hearing, and we believe it is the most that we can collect this year without facing a legal challenge that could delay the rule. Industry has already expressed concern that this rule imposes fees on products that have already been sold. With the rule, the fund will end the year at a balance of more than one million. Without the rule we will be near or below zero. Either with or without the rule we are unable to end this year above the \$2 million minimum balance that the statute asks.

This rule also resumes the maximum fee collection beginning next year. The maximum fee would apply on fertilizers sold since this July 1 and on pesticides sold after October 1, 2001. At this maximum surcharge rate allowed by statute, the potential revenues are estimated at \$2.7 million. This is still less than the \$3.1 to \$3.4 million that we face in annual expenditures. Again, our maximum surcharge authority does not allow us to comply with the \$2 million minimum. The fund will run out of money by the end of the biennium.

Stat Problem

*Sales
10-2000
10-2001*

The only means of resolving the issue are legislative. The Department is in the process of convening an advisory committee, to discuss long-term options for addressing ACCP funding. We have also explained to our Department Board that we only see three options for resolution:

- Resumption of GPR contributions toward these cleanups, consistent with the early direction of the program, and in recognition of the general benefits these cleanups have on Wisconsin's small community economies and on the environment.
- Increases in the maximum surcharge fees allowed by the statute. This increase would be in the tail wind of the fee increases imposed by this rule, plus \$1 million of increases to the base fees that are already on the books for next year.
- Reduce the fees collected from this industry that are currently diverted to the environmental fund and instead deposit this amount in the ACCP Fund. The industry is paying more in fees toward DNR's environmental fund now than they did before DATCP established its lead role on these environmental programs.

Each of these options presents its own challenges and we expect some tough discussions when we return to you. While funding the program is a challenge, no one thinks we should stop cleaning up the contamination. We believe that our program is effective, efficient and necessary. While no facility likes spending money to clean up a problem that is not directly visible, they do believe we treat them fairly. They also tell us that knowing their cleanups will be reimbursed is the best means of assuring the cleanups will happen. Likewise, consultants regularly comment that we watch both the budgets and technical expectations more closely than any other program.

We're both proud of the work we've done and concerned about future funding. We think this rule should be implemented promptly while we continue discussing the additional funding that will be needed to keep the fund solvent. The rule needs to be released by the legislature and published quickly since the only revenues we will collect before next June are collected during November and December.

Thank you for the opportunity to present testimony on this rule and to explain the tough decisions that lie ahead for this program.

Clearinghouse Rule 01-021
Agricultural Chemical Cleanup Program Surcharge Fees
Background to Testimony of Nicholas Neher

The Agricultural Chemical Cleanup Program was established in 1994 to help local coops and independent farm centers deal with the problems that had resulted from years of accumulation of small spills, dripping valves, equipment cleaning and related activities at pesticide storage and handling facilities. In the early years of pesticide handling these facility operators were lead to believe that these chemicals would break down rapidly and that only larger releases might cause an environmental problem. Investigations during the late 1980s and early 1990s found this was not the case, and that contamination was common at these commercial facilities. We've also found these problems at farms, but typically at a smaller scale.

When the program was established it had two components; cleanup and reimbursement. The investigation and cleanup component required the Department to go out and identify the contamination and direct facility owners to clean up the contamination. We have done that at over 350 sites and completed work at more than 140 sites. We also clean up and close between 50 and 90 one-time spills of fertilizer or pesticide annually.

The reimbursement side of the program was initially established to recognize that the one-time costs of these cleanups, even when well managed, can be expensive. For a seasonal industry that works on tight margins, the \$50,000 to \$150,000 cost of a cleanup was frequently large enough to force site closures. Funding for reimbursements was initially established with a near 50/50 mix of GPR and industry surcharges, to recognize that this program would benefit both agriculture and the environment, as well as the small communities where these facilities exist.

In the first years of the program many facilities waited to see how well the program would work before submitting claims. Provisions in both the law and rule provided several incentives to hold back on submission of costs. Our assumptions that claims would come in rapidly resulted in over-estimates on costs during these years. While substantial dollars were spent, claims were not submitted, such that the pot of eligible costs grew far faster than the reimbursement claims. Finally the statute instituted a three-year rolling deadline for submission of costs, with the intent of eliminating this large but undefined backlog of eligible costs.

During FY 00/01 we have dealt with the last of these old costs, which lead to a record reimbursement level of just under \$4 million. We have an additional \$1.8 million in pending claims that were carried into this fiscal year, but the unknowns on what might be submitted and other rule provisions that limited our ability to reliably estimate costs are virtually eliminated.

Current expenditure estimates are based off written and approved cost estimates. Every December we review completed work and compare this with the approved cost estimates

to arrive at our annual industry expenditure. We know the industry has spent between \$4.2 million and \$4.7 million per year in each of the past three years. We know that 75% of costs are submitted within one year of when they are incurred and 90% are submitted within two years of when they are incurred. We also know that after deductibles, co-pays and ineligible costs are removed, we typically pay 75% of the submitted industry expenses.

While funding for the program began with the 50/50 GPR/ Industry mix, this changed when expenses did not match predictions. Industry fees accumulated in the ACCP Fund and GPR allocations were lapsed and reduced. Eventually the ACCP surcharges were placed on hold and the GPR appropriation was reduced to zero. Nearly \$3 million in industry surcharges was also converted to GPR during this period. This remains a major concern of the industry. Between the surcharge fee suspension, rule changes that promoted prompt submission of eligible costs and the conversions of SEG to GPR, the fund balance has dropped rapidly. A reduction in the balance was both expected and necessary to bring the fund balance in line with fund needs. But the loss of GPR and conversion of SEG funds to GPR further accelerated the balance reduction and made this more immediate response necessary. Regardless of the fund balance, the industry will continue spending more than \$4 million per year to clean up this contamination. A failure to promptly address the funding need simply accelerates the problem of facility closings.

During FY 00/01 the balance went from \$7.3 million to \$3.2 million. Although expenditures were higher in 00/01, with some carry-over effect in 01/02, the annual expenditures will drop back to between \$3.1 and \$3.4 million. Without prompt resumption of surcharge collection, the fund will be near zero at the end of FY 01/02. Even with resumption at the maximum rates proposed by this rule, the estimated \$2.7 million in revenue will not meet the expected reimbursement demand.

Agricultural Chemical Cleanup Program Financial History

Fiscal Year	GPR Appropriation	GPR Reimbursements	GPR Lapsed (at end of FY)	SEG Revenue (with interest)	SEG Reimbursements	SEG Converted to GPR	SEG Balance end of FY
93/94	\$2,000,000	\$ 0		\$1,888,800*	\$ 0*		\$1,888,800
94/95	2,000,000	609,826	\$3,100,000	2,671,500*	166,001*		\$4,394,299
95/96	2,000,000	465,594		2,926,733*	525,032*		\$6,796,000
96/97	2,000,000	627,204	\$2,700,000	\$3,265,865	\$707,272		\$9,354,593
97/98	1,550,000	688,271		3,443,293	776,136	\$506,906	\$11,514,844
98/99	1,850,000	1,750,795	\$1,458,310	491,044	1,123,842	479,278	\$10,402,768
99/00	0			544,886	2,144,078	1,500,000	\$7,303,576
00/01	0			397,026	3,971,619	500,000	\$3,228,983
Totals	\$11,400,000	\$4,141,690	\$7,258,310	\$15,629,114	\$9,413,980	\$2,986,184	
			GPR balance still available: \$0	SEG balance available on 7/1/01: \$3,228,983			

*The ACCP operated as a component of the ACM Fund from its creation in 1993 until the end of FY 95/96. Then the ACCP Fund was created and the funds collected for that program were transferred from the ACM Fund.

ACCP Fund Revenue Sources at Maximum Surcharge Level

Surcharge Source	Maximum Surcharge Amount	Units	Annual Revenue
Fertilizer License	\$20	300 licenses	\$ 6,000
Fertilizer Tonnage	\$0.38	1,300,000 tons	494,000
Restricted-Use Pesticide Dealer	\$40	420 licenses	16,000
Pesticide Application Business License	\$55	1,270 licenses	70,000
Individual Pesticide Applicator License	\$20	5,250 licenses	105,000
Pesticide Registrations Sales from \$0 to \$25,000	\$5	3,600 products	18,000
Pesticide Registrations Sales from \$25,000 to \$75,000	\$170	220 products	38,000
Pesticide Registrations Sales >\$75,000	1.1% of sales	\$175,000,000 gross sales	1,925,000
TOTAL			2,672,000

Customer One Cooperative Feed/Agronomy Centers

From the desk of:
Steve Hanvold

Wisconsin Department of Agriculture, Trade and Consumer Protection
Pesticide Surcharge Committee
P.O. Box 8911
2811 Agriculture Drive
Madison, WI 53708-8911

08-02-2001

To Whom it May Concern,

Although I cannot attend in person, I wish to send a statement that generally conveys my opposition to some of the points of the raising of the pesticide surcharge.

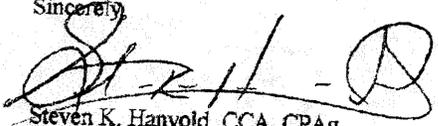
First (and foremost) I am very opposed to the ability of this charge to be retroactive. I think this is an unfair burden that would, ultimately, be bore by the agricultural (retail) community. While everyone in the chain, up to us, can recover these costs by charging it back, we cannot. We feel in the present farm economy, we cannot be expected to make these sacrifices.

Second, I would like to endorse Randy Vollrath's ideas of streamlining the process of discovery on some of the remediation work. I think it is pointless and a waste of money to spend money on redoing things we already know.

Third, I would like to have it understood that I think the monies received from these charges should stay in this fund. They should not be able to be used in the general fund.

Finally, I would like it understood that I support the idea of the fund. I just think that we need to use some common sense when collecting and distributing it.

Thanks for your time and consideration.
Sincerely,



Steven K. Hanvold, CCA, CPAg
Agronomy Division Manager
Customer One Cooperative
800 4th St.
P.O. Box 215
Marathon, WI 54448-0215
USA
715-443-2677 Phone
715-443-2897 Fax
steveh@dwave.net e-mail

Steven K. Hanvold, CCA, CPAg
Agronomy Division Manager
Certified Crop Advisor
Certified Professional Agronomist

Amy Winter 8/2/01

Agricultural Field Crops Pesticide Fees 13 MACPA States

State	Pest. Reg. Fee/Year unless noted	Pesticide Special Taxes	Comments	Pesticide Dealer or Business Facility License	Private Applicator License (Farmer)	Com. Appl. License	Noncom. Appl. License	Public & Commercial Not for hire License	Operator License	Sales Tax Charged
CO	\$80/product application*	\$20* - included in registration fee.	* \$20 for CO Groundwater fund.	Restricted Use Pesticide Dealer - \$50/year/site	No license certification only. See state notes.	\$350/year	NA	\$50 Limited Commercial & Public Applicator \$75 Qualified Supervisor 3 years.	\$75 individual without on site supervision.	NO
IL	\$250/company, \$100/product 2003, \$300/company, \$130/product 2004.	NA	NA	\$100/location for restricted use.	\$15 2006, \$20 2007, License is for 3 years.	\$45 -2006, \$60 -2007	NA	NA	\$30 2003 \$35 2004 \$40 - 2007	NO
IN	\$75*	NA	*Discontinued pesticide requires 2 yrs. terminal registration. (Reg. fee continues.)	\$30/year per location.	1/1/01-\$10/yr. plus continuing education or \$40 for 5 years plus test.	\$30/year	NA	\$0 public employees, \$30 not-for-hire	NA	NO
IA	\$250-\$3000/product. \$250 initial registration for new products for first year. Natural Products* (See state notes.)	NA	Fees based on one fifth of one percent (0.002) of previous year's sales.	Depends on sales. See state notes.	\$15 for 3 years.	\$25 per company plus \$30/year, or \$75 for 3 years, for each applicator.	Not necessary as long as non-restricted pesticides are used and on property owned by the company.	Public must be certified.	NA	NO
KS	\$190/product	NA	\$100 to state water plan, \$30 KS Depart of Ag to fund pesticide program operations, \$60 KS Ag Remediation Fund.	\$100/year. An additional \$10 is required for each non-certified applicator that applies pesticides under the business' license. \$100/location dealer facility license fee. See state	\$10 -requires certification	\$35 per category every 3 yrs.* \$25 initial exam fee per category.	NA	NA	NA	NO

State	Pest. Reg. Fee/Year unless noted	Pesticide Special Taxes	Comments	Pesticide Dealer or Business Facility License	Private Applicator License (Farmer)	Com. Appl. License	Noncom. Appl. License	Public & Commercial Not for hire License	Operator License	Sales Tax Charged
MI	\$20/product	Specialty \$100 per product. Non-specialty - 0.75% Annual Gross Sales in MI with minimum of \$150. *	* Funds Ground Water and Fresh Water Protection Act.	\$50/dealer	Certification required (\$10 for 3 years), then \$25 for registration.	Must be certified (\$50 for 3 years), then \$25 to register. Must also have a business license - \$50.	NA	NA	NA	NO
MN	0.6% of one percent of annual gross sales in MN, \$250 minimum.*	0.2% of one percent of annual gross sales in MN**. (This is included in reg. fee.)	*Discontinued pesticides require 2 yrs. terminal registration. **For clean-up of ag chem spill sites.	\$200/year per location with \$50 license and \$150 to ACRRA.	\$35 3 years.	\$90 includes \$40 to ACRRA.	\$90 - Business \$10 exempt government entities.	NA	See state notes.	NO
MO	\$15/product	N/A	NA	\$25/year dealer license	Certificate required.	\$50	\$25/year	Must be certified.	See state notes.	NO
NE	\$90/product	NA	\$30 Noxious Weed Cash Fund, \$60 Buffer Strip Incentive Fund.	\$25/year per location for dealer.	\$0 See state notes.	\$0	\$0	NA	NA	NO see state notes.
ND	\$350/2 years.	See state notes.	\$50 General Fund \$300 Environment And Rangeland Protection (EARP) Fund.	Business must register with Secretary of State.	\$19 plus certification fee.	\$53 single cat. \$10 for additional cat. plus cert.	NA	NA	NA	YES
OH	\$50/product	\$50 - See state notes.	NA	\$25/year	\$30 for 3-year certificate.	\$100 - year	NA	\$20/year	\$30/year	YES
SD	\$175 every 2 yrs.	NA	\$40 pest. reg. fund, \$42.50 weed & pest fund, \$42.50 public lands weed & pest control fund, \$30 ag experiment station, \$20 cooperative extension service.	\$50/site for dealer or \$25 - if applicant holds pesticide applicator license. 7/1/01 - \$100 every 2 years per site plus applicator license if applicator.	\$0 certification required every 5 years.	\$25/year 7/1/01- \$25 for 2 years.	NA	\$0 for government employees.	NA	NO
WI	Non-household pesticides, fees are determined	See state notes regarding	*Fees for previously	\$70/yr/location Commercial Pesticide	\$0 must be certified which is	\$45/year for license includes \$15	NA	Government & Education exempt, but	NA	NO

by the gross sales as follows:	ACCP surcharge & changes in 2002.	registered pesticide products are based on product type & the product's preceeding year's gross sales in WI. See state notes.	Business Location License.	\$30 per category.	for certification & \$30 for license.	must file for license.		
Less than \$25,000 annual gross sales - \$270/product;			\$60/yr/location for Pesticide Dealer Restricted Use.	\$5/sub-category. Good for 5 years.	License fee of \$40/year to resume 12/02.			
\$25,000 - \$75,000 - \$790;					Plus ACCP surcharge of \$20.			
>than \$75,000 - \$2,760 + 0.2%.*					See state notes.			
See state notes for change in 2002.								

HEADING DEFINITIONS:

- **State** respective 13 states in MACPA region
- **Pest. Reg.** Pesticide Registration
- **Pesticide Special Taxes** fee charged at time of registration for a specific effort. Product cannot be registered in the state without paying the special tax.
- **Comments** explains the special tax or any other special things related to pesticide registration.
- **Pesticide dealer or business facility license** different states use different terms but generally refers to a special license that either the dealer or facility must have in order to operate.
- **Private applicator license (farmer)** this is only for farmers or producers.
- **Com. Appl. License** Commercial Applicator License
- **Noncom. Appl. License** Noncommercial Applicator License
- **Public & Commercial Not for hire License** generally this is for public employees such as state or school districts and other "not for hire" entities.

HEADING DEFINITIONS CONTINUED:

- **Operator license** varies from state to state. In Illinois it means the person who drives the spray rig. A licensed commercial applicator has determined and loaded the appropriate spray mixture.
- **Sales Tax Charges** this is for purchase of pesticide products by farmers for agricultural production purposes.
- **NA** Not applicable.

STATE NOTES:

Colorado Environmental Protection Agency handles the private applicator program. No license is issued; rather the producers are certified via a self-study kit. The certification program is free and good for 4 years.

Illinois \$5 fee for duplicate license, \$20 for late application fee.

Iowa pesticide dealer with less than \$100,000 in gross retail pesticide sales pay a license fee based on one-tenth of one percent of the gross retail pesticide sales in the previous year or:

- a. \$25.00 if less than \$25,000 gross retail.
- b. \$50.00 if \$25,000 or more but less than \$50,000.
- c. \$75.00 if \$50,000 or more but less than \$75,000.
- d. \$100.00 if \$75,000 or more but less than \$100,000.

Iowa license required for manufacturer and distributors not engaged in retail sales - \$25/location.

Iowa natural products are exempt from registration fees, but must still register, if the sales are less than \$20,000 in state and no similar product is registered in the state and a substantial amount of active ingredient is naturally occurring substance such as plant or animal and the oral lethal dose 50 has to be 5,000 milligrams/kilograms or greater.

Kansas dealer/facility license fee and special assessment - \$100/location split with \$20 to KS Department of Ag to fund pesticide program operations. (A bill is being considered that would increase the \$20 fee paid to the Department \$12 to a grand total of \$32.)

Commercial applicators license is good for 3 years and requires 6 hours of recertification training every 3 years.

Michigan legislature is considering an increase in fees, as this matrix is prepared.

8/2/01

Notes from Public Hearing on Pesticide Rule
Joint Hearing with Senate Labor, Agriculture Committee.

Disc. with Al
prior to hearing:

Idea is to restructure current fund,
allowing for clean ups and at the same time
create such an account that would assess fees
after the clean ups.

Lock box situation? - Can there be any guarantee
that legislature will not touch the fund?

Especially since it is funded with industry fees not or

Main problem with the proposed rule is the
retroactive part - collecting \$ on past sales
that can not be paid by the sales income.

The industry would have to come up with lots of
money at the end of the year but since the
sales were done last year, no way to raise
prices or anything to build up money for such a
large pay in. Industry claims they did not
know about fees increasing & such. (Holiday was ending
so should have expected it, however by law they cannot
create surcharges in anticipation, must be after the
fact.)

NICK NEVER from DATCP

Without the rule, fund would have 0 balance
thus no money for reimbursement.

Current statute directs 2.5 M / Max surcharge amounts
to be in the fund.

Fund Balance has dropped after legislative raises.

1.6 M can be generated this year but
it would be on products already sold (concerns
money)

With or without the rule, fund not able to
stay in the 2 M range.

Promise was to do 50/50 - 50 OPR + 50 industry fees
over time this ratio changed
3 M of industry money got diverted.

Resume Max fees collection Next year (after ^{fee} holiday)

3.1 → 3.4 M Needed annually, of which
- 1.8 M is to be reimbursed now

eventually will run out of funds
= No reimbursement for clean ups, others still waiting
plus 80-90 spills occurs between manufacturing + trees

NICK WITH DNR'S MARK (Remediation cleanup specialist - soil water,

HISTORY

- started in 1994 Budget process.
 - identified 600 commercial locations
 - | 2/3 needed cleanup out of 600
 - proactive since remediation ends up more costly
 - industry agreed + supported this
- OATCP create package to address the issues
- ↳ 50/50 match 3M GPR + 3M industry

then cleanup started.

then had spills

- 1st spill - 75% paid for costs incurred from fund
- 2nd spill - 50%

However bills for reimbursement come late
 Waited to get bigger bills reimbursed first
 Cap on amount per site put in - \$400,000 industry supported

Legislature then ① took GPR \$ back.

\$ was not spent + industry was paying in - why GPR

② created rolling 3 year window = 3 year max.

Money still there with a balance

- didn't want to put GPR in

instead SCB was converted to GPR as well.

Balance for '97/'98 etc - way down today.

Industry also wanted to bring their fees down because of the remaining balance.

↳ created "fee holiday"

- suggested balance to remain would be 2.5 M...

July 1st - Next June - fertilizer sales

Oct - Sept pesticide

in the meantime 5 M cases came in due to provisions

Reimbursements come 90% within the 2nd year

New plan approved - sit must be reversed prior to bill being sent in within 3 years.

This gives Dotip more clear idea of what's needed.

Rule - reinstates fees

issues for hearing: (1) statutory req to have 2 M maintained
(2) retroactivity

Datcp does reinforcement if no money available to reimburse for clean-up sites or spills.

DNR would get stuck with the really bad sites if individuals could not do it / dip into other funds.

- DATCP & DNR cooperatively work stuff out.
- every \$1 goes to reimbursement from the funds.

Ag. chem. spill / contamination sites -

400 out of 600 need cleanup
 ↳ 300 were looked at
 but some revisited.

- Not aware of farm sites.

Datcp took spill part from DNR & \$'s went up.

Costs smaller this way / 80-90 pct

- if had 600 cleanup sites in maintenance mode costs would be less but that has not happened...

- former sites needing cleanup happen occasionally

Datop asks DAK for help if need a state funded clean up - dealing with environment.

- if knowingly do something illegal, fund does not pay

- have cleanup council

↳ staff is in consultation about each site & some are turned down.

Ag. chem. management fund is for employee salary only

Pesticide fees - used only for reimbursement for cleanup.

funds, the way they work now is that they are linked but not duplicating services.

Farm site - reluctance to report

+ there is the knowledge

of lack of money for the clean ups

⇒ go to joint finance for retro money

⇒ 95% costs still go to farmers!

JEFF JOHNSON - against rule

↳ disappointed that GRR funding was dropped then it taken out on top of it.

(most committee members agreed on that)

Rep. Reynolds asked why GRR should be used?

- part of original 50/50 agreement
- industry not able to keep up alone / bankruptcy rates high
- everyone eats so all should pay in

Jeff is not opposed to fund, supports it
but is opposed to the retroactive part
as imposition of surcharge since GRR taken

JOHN MANSKE of Cooperatives - supports with hesitation.

What is the liability of a property owner?

Back when fund started, insurance was not available to do what the fund is doing.

Focus of cases was to clean up site - business mix + load not the pass through type spills.

WFC also disagrees with the retroactive part.

RANDY VOLLRATH - Olsen's mill - against

- \$ could have been saved if they did not have to hire a consultant.

⇒ make sure funds are being used properly.

- does not like reimbursement part.

- Not opposed to the fund since it is needed

works for Reg. Luther Olsen's mill + is in ag retail supply, 70 years in the business...

Is there a possibility that application can be turned in by someone other than an engineer?

{ Not practical for most sites
{ it may work for some simple sites where the owners know what they are doing as in this case.

Most of the sites are complex & expert opinion is needed.

Mark also suggested that special license for cleanup is needed because there were so many fly-by-night consultants...

ARMY WINTERS - against

- since money was raised

- a year passed before short fall perceived was let it be known to chem. fertilizer industry.

- wants rule to go to JCRAC to change fee date so it would not be retroactive.

| Al wondered about the assumption that JCRAC would be friendly to such suggestion...

Army defended her action saying that's what she was told was to happen...

- Wisconsin has highest pesticide fee rate in the nation - it's one even smaller

Minnesota has clean up costs that are a fraction of what ours are.

| Al also questioned this assumption. It does not have such a fund, they also ship a bunch of garbage to us. Companies apply with oranges...

- Army tried to get Ag. Chem. Mgmt fund to have \$ transferred here but was told by Datsop that they had Indemnity fund as their priority, needed loan from Ag. Chem. mgmt to deal with that.

| Al emphasized that they needed this. Army should not be trying to tear industry apart.