

**2003 DRAFTING REQUEST**

**Bill**

Received: **09/30/2002**

Received By: **btradewe**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Walker**

This file may be shown to any legislator: **NO**

Drafter: **btradewe**

May Contact:

Addl. Drafters:

Subject: **Agriculture - miscellaneous  
Agriculture - pesticides**

Extra Copies:

Submit via email: **NO**

**Pre Topic:**

DOA:.....Walker - BB0198,

**Topic:**

Agrichemical management fund and agricultural chemical cleanup fund changes

**Instructions:**

See Attached

**Drafting History:**

| <u>Vers.</u> | <u>Drafted</u>         | <u>Reviewed</u>       | <u>Typed</u>           | <u>Proofed</u> | <u>Submitted</u>       | <u>Jacketed</u> | <u>Required</u> |
|--------------|------------------------|-----------------------|------------------------|----------------|------------------------|-----------------|-----------------|
| /?           | btradewe<br>10/18/2002 | kgilfoy<br>10/18/2002 |                        | _____          |                        |                 | State           |
| /P1          |                        |                       | rschluet<br>10/18/2002 | _____          | lkunkel<br>10/18/2002  |                 | State           |
| /1           | btradewe<br>11/12/2002 | kgilfoy<br>11/12/2002 | jfrantze<br>11/12/2002 | _____          | sbasford<br>11/12/2002 |                 | State           |
| /2           | btradewe<br>01/14/2003 | kgilfoy<br>01/14/2003 | pgreensl<br>01/15/2003 | _____          | lemery<br>01/15/2003   |                 |                 |

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kmf*

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P8*

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**Bill**

Received: **09/30/2002**

Received By: **btradewe**

Wanted: **As time permits**

Identical to LRB:

For: **Agricult. Trade and Cons. Prot.**

By/Representing: **Barb Knapp**

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Subject: **Agriculture - miscellaneous  
Agriculture - pesticides**

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**Pre Topic:**

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**Topic:**

Financing the agrichemical management fund and the agricultural chemical cleanup fund

**Instructions:**

See Attached

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| /?           | btradewe<br>10/18/2002 | kgilfoy<br>10/18/2002 |                        | _____          |                       |                 | State           |
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|              |                | 1/11-10/18<br>Kmg |  |  p6 |                  |                 |                 |

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10-F8 12

**Tradewell, Becky**

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**From:** Knapp, Barb H DATCP  
**Sent:** Monday, September 30, 2002 1:28 PM  
**To:** Tradewell, Becky  
**Cc:** Matson, James K DATCP; Morrison, Paul A DATCP  
**Subject:** Ag Chem Fund Request for 03-05



5720 ACM & ACCP  
Funds-paper-fi...



APPENDIX A --  
AgChem Fund Lang...

Hello Becky,

I'm forwarding the issue paper for the Ag Chem Funds plus the draft stat language that we've worked on related to it. The fee increases are not being advanced at this time.

Feel free to call any of us with questions.

Thank you,  
Barb

Department of Agriculture, Trade and Consumer Protection  
2003-2005 Biennial Budget Issue Paper

Financing the Agrichemical Management Fund and the Agricultural  
Chemical Cleanup Fund (DI# 5720)

PROBLEM

Under current law, both the Agrichemical Management Fund and the Agricultural Chemical Cleanup Fund project a deficit during the 2003-2005 biennium, requiring reduction or elimination of programs needed to protect Wisconsin from pesticide risks.

REQUEST

The Department requests authority to:

- Return reimbursement rates under the Agricultural Chemical Cleanup Program from 80% (current rate) to 75% (original rate).
- Make transfers from the Agrichemical Management Fund to the "Agriculture in the Classroom" program only after the DATCP Secretary determines that other program needs are met. (Current law requires DATCP to transfer \$100,000 annually, regardless of other needs).
- Fund agricultural "clean sweeps" from the Recycling Fund (they are currently funded from the Agrichemical Management Fund).
- Transfer DNR's urban "clean sweep" program to DATCP, and fund the program from the Agrichemical Management Fund. Retain, in the Agrichemical Management Fund, moneys previously transferred to DNR for the urban "clean sweep" program (\$30 fee for each "household pesticide product").
- Cap transfers to the DNR environmental fund at \$1,150,000 per year.
- Adjust the basis for calculating the fee amount from prior year *actual* sales to current year *estimated* sales. Reconcile the estimated amount with the actual amount after the year is over. (Not a fee increase.)
- Eliminate the current provision requiring DATCP to keep the Agricultural Chemical Cleanup Fund balance between \$2 million and \$5 million. Substitute a requirement to maintain a balance of not more than \$3 million (no minimum).

BENEFITS

This proposal allows continuation of programs that protect citizens and state land and waters from misuse of, or exposure to, pesticides. These programs will continue to assure that other agricultural production inputs are safe for animals and the environment. The proposal will also continue reimbursement of claims under the Agricultural Chemical Cleanup Program.



- This proposal will allow the Ag Clean Sweep program to continue. The program may be suspended during 2003, because no funds are available in the ACM Fund. This proposal would allow resumption of this popular and important program in 2004. Without this proposal, the program would cease indefinitely.
- This proposal will continue high priority agrichemical inspections and investigations needed to protect Wisconsin citizens and the environment. Without this proposal the department must eliminate programs (in addition to Ag Clean Sweeps) beginning the first year of the next biennium. The projection of a \$700,000/year shortfall would require elimination of not only Ag Clean Sweeps but also several program specialists, along with their associated supplies and services. Currently most programs rely on a single program specialist and several specialists manage multiple programs. This one-person per program efficiency, means that loss of a single staff position can equate to elimination of the expertise needed to run an entire program. A listing of the agrichemical programs follows this section.
- This proposal will allow persons responsible for cleanup of sites contaminated by agricultural chemicals to receive reimbursement for a portion of their cleanup costs. Without this proposal cleanups may slow down and the persons responsible experience significant reimbursement delays for their cleanup work.

#### WHAT PROGRAMS ARE AFFECTED?

The Agrichemical Management Bureau is a collection of programs associated with production inputs for agriculture, and the urban counterparts to those agricultural products. The Agrichemical Management Bureau enforces federal laws related to these products and both develops and enforces state rules, including all of the following:

- Cleaning up **fertilizer and pesticide spills** and reimbursing parties doing the cleanups.
- Containing bulk and non-bulk **fertilizer and pesticide storage and mixing** facilities.
- Investigating **pesticide mis-use complaints**
- Producing the **lawncare pesticide pre-notification registry** and complaint investigation
- Investigating **human or animal poisonings** related to feed, fertilizer or pesticides
- Registering **pesticides**, including emergency uses for unique pest problems
- Testing and licensing of **pesticide applicators** and application businesses
- Protecting **endangered species** from pesticide use
- Implementing **Integrated Pest Management in schools**, including contracts with University of Wisconsin pest control experts to explore non-chemical control options.
- Assuring **animal feeds and pet foods** are nutritious and safe, including monitoring for prohibited substances including certain protein products associated with mad cow disease (and potentially chronic wasting disease).
- Assuring **animal drugs** are appropriately dispensed through medicated feed products
- Assuring **fertilizers and related products** are accurately labeled and efficacious
- Protecting **groundwater and surface water** from pesticide contamination
- Implementing **nutrient management planning**

- Coordinating **agricultural clean sweeps** and pesticide container collection programs
- Protection of **agricultural workers** from on-the-job **pesticide exposure**
- **Pollution prevention** for pesticide and fertilizer storage and handling
- Tracking of sites potentially contaminated by historic use of **lead and arsenic** pesticides and providing landowners with health protection guidance.

## BACKGROUND

Since establishment in the late 1980s, the department has managed the Agrichemical Management (ACM) Fund as both the repository of revenues associated with agricultural production inputs and as the source of revenues to conduct its regulatory and enforcement programs associated with these inputs. Prior to that time both revenues and expenditures related to agrichemicals were part of the general fund. In the mid-1980s approximately \$466,000 per year of industry fees were forwarded to DNR to support their role in coordinating groundwater related activities.

In the early 1990s the Agricultural Chemical Cleanup Program (ACCP) was introduced as a part of the ACM Fund, and was later separated into a distinct reimbursement fund for those who have conducted cleanups at sites contaminated with fertilizers and pesticides. Other initiatives in this timeframe also increased the department's roles in groundwater and waste related activities including establishing Ag Clean Sweeps, developing our agrichemical spill response capabilities and expanding our role in tracking and responding to pesticides in groundwater. Despite these increased DATCP roles, fees transferred to DNR increased in all years except the first year following the start of the ACCP.

In the early 1990s the department worked with industry under a plan that would minimize the frequency of fee changes. The fund balance was planned to build during the early 90s, then dissipate in the late 90s, all before fee increases would be necessary. A combination of cost savings, unanticipated revenues and delays in claim submissions allowed the funds to build more rapidly and farther than anticipated. Fees were temporarily reduced to allow these funds to dissipate, but legislative desires to fund unrelated state programs lead to "raids" on the balances of these funds. Agrichemical fees are now unable to sustain the current programs. Tables 1 and 2 show the balances over the past several years, along with projected funding shortfalls over the next biennium, assuming no changes.

As shown in Table 1, the ACM Fund had, by design, been generating lower revenues over the 1998-2002 period, with a goal of reducing the fund balance. Over this same period expenses incurred an annual average growth rate of less than 5%, reflecting the combined effects of inflation and several new programs expected of the agency over this period (including IPM in schools, lead arsenate and nutrient management). Ag in the classroom was also added as an external cost for this fund. Beginning in FY 02/03 the revenues resume at the fee levels in place prior to mid 1998. Even with resumption of these fees, the funding is not sufficient to offset current program costs, and the ACM balance will be exhausted during the current fiscal year (02/03).

Table 1: ACM Fund Balance (under current law)

|                    | 98/99       | 99/00      | 00/01                      | 01/02                         | 02/03                         | 03/04                         | 04/05                         |
|--------------------|-------------|------------|----------------------------|-------------------------------|-------------------------------|-------------------------------|-------------------------------|
| Opening Balance    | \$7,080,000 | 6,722,000  | 6,281,000                  | 4,077,000                     | 549,000                       | -133,000                      | -828,000                      |
| Revenue            | 4,612,000   | 4,559,000  | 4,396,000                  | 4,230,000                     | 5,132,000                     | 5,119,000                     | 5,119,000                     |
| Expense            | -4,970,396  | -4,999,000 | -5,601,000                 | -5,658,000                    | -                             | -5,964,000                    | -5,964,000                    |
| Ag in Class        |             |            |                            | -100,000                      | -100,000                      | -100,000                      | -100,000                      |
| Other Fund Impacts |             |            | -1,000,000<br>Lapse to GPR | -2,000,000<br>Prod. Sec. Loan | +250,000<br>Prod. Sec. Repaid | +250,000<br>Prod. Sec. Repaid | +250,000<br>Prod. Sec. Repaid |
| Closing Balance    | 6,722,000   | 6,281,000  | 4,077,000                  | 549,000                       | -133,000                      | -828,000                      | -1,522,000                    |

The department anticipates being able to meet expenses during FY 02/03 and FY 03/04 only through an accelerated repayment of the \$2,000,000 loan used to initiate the Producer Security Program combined with reduced grants for the Agricultural Clean Sweep program. Statutes establish a minimum producer security repayment of \$250,000 per year beginning July 2003. Instead, the department made an initial repayment of \$250,000 in fall 2002, with further repayments dictated by bonding decisions within the Producer Security program. Table 1 indicates an additional \$133,000 in Producer Security repayments will be needed before the end of FY 02/03, and an added \$700,000 per year in subsequent years (all assuming no other supplements would be needed or provided).

The department's estimates in Table 1 have already lead to the agency's decision postpone final decisions on agricultural clean sweeps from the ACM Fund beyond fall 2002. Without elimination of agricultural clean sweeps full repayment of the Producer Security loan would be needed by the end of 2005. Rapid repayment of the loan is, however, limited by potential defaults on producer payments by dairy, vegetable and grain facilities. While the department does not support elimination of agricultural clean sweep funding, repaying the Producer Security Loan at this accelerated rate cannot be assured. This package provides some long-term solutions, but eliminating ACM funding for sweeps until after implementation of the recommendations in this package may still be necessary.

Table 2 shows the ACCP Fund balances and projections under current law. Similar to the ACM Fund, the ACCP experienced a fee holiday from FY 98/99 to FY 00/01, based on the fund balance. FY 98/99 was also the last year in which GPR funds supported a portion of the reimbursements. Fiscal 00/01 was the deadline for persons cleaning up contamination to submit cleanup costs that were incurred more than three years prior. The caseload in that year caused a distinct peak in reimbursements that is not expected to

recur. A partial resumption of ACCP fees occurred in FY 01/02, with the maximum allowable fees now in effect.

Data evaluated since implementation of current rules has indicated more than 95% of approved costs are being submitted for reimbursement and more than 75% of those costs are submitted within a year of the cost being incurred. After considering deductibles, co-pays and ineligible costs submitted, the program has averaged reimbursement payments equaling 75% of costs submitted.

Table 2: ACCP Fund Balance (under current law)

|                 | 98/99      | 99/00      | 00/01      | 01/02      | 02/03      | 03/04*     | 04/05*     |
|-----------------|------------|------------|------------|------------|------------|------------|------------|
| Opening Balance | 11,515,000 | 10,403,000 | 7,304,000  | 3,247,000  | 1,217,000  | 360,000    | -515,000   |
| Revenue         | 491,000    | 545,000    | 415,000    | 1,528,000  | 2,544,000  | 2,524,000  | 2,515,000  |
| Reimbursements  | -1,124,000 | -2,144,000 | -3,972,000 | -3,559,000 | -3,400,000 | -3,400,000 | -3,400,000 |
| Lapsed (to GPR) | -479,000   | -1,500,000 | -500,000   |            |            |            |            |
| Closing Balance | 10,403,000 | 7,304,000  | 3,247,000  | 1,217,000  | 360,000    | -515,000   | -1,400,000 |

\*Reduced income in these years reflects a loss in interest earnings. Increased reimbursement expenses resulting from interest on delayed reimbursements would result in deficit years.

Under current rules, consultants are required to submit and receive approval on written cost estimates. These estimates provide a sound basis for estimating future costs. Expenses are based on continued expenditures by the industry of \$4.5 to \$4.7 million per year, while actual annual expenditures have varied from \$4.5 to 4.9 million. Given the large number of un-investigated sites, the number of new cases cannot be expected to decrease in the foreseeable future, and total costs could increase in response to inflation.

## ANALYSIS

This proposal utilizes a combination of actions to assure vital agrichemical programs are preserved, recognizing the tight financial conditions facing both the state and the agricultural economy.

- Programs that can be reduced without being eliminated have been pared to minimum levels.
- The Ag Clean Sweep program would be restored in 2004.
- Program costs are balanced, to the extent possible, with revenue sources. Fund allocation is adjusted to better reflect the services provided.

### Reducing the ACCP Reimbursement Rate

Under the original ACCP statute, the ACCP Fund reimbursed 75% of corrective action costs above the “deductible.” In the mid-1990s when the fund had a sufficient balance, the reimbursement rate was increased to 80%.

This proposal would return to the original 75% reimbursement rate for all costs incurred after December 31, 2003. This modification of the statutes would reduce ACCP reimbursement expenses by \$212,000.

Affects s. 94.73(6)

### Agriculture in the Classroom and Agricultural Stewardship Grants Limited to Fund Availability

2001 Act 16 added grant funding to the ACM Fund for the agriculture in the classroom program administered by the Farm Bureau Federation. This language was added based on an understanding that the fund would be solvent even with this added expense. Based on current budget projections, funding will no longer be available without adoption of this package or alternatives that provide comparable funding.

The Department proposes the statutes prioritize the core regulatory functions and purposes of the ACM Fund over the agriculture in the classroom grant. This proposal would fund the agriculture in the classroom, at a rate up to \$100,000, by using any unallocated funds in the ACM Fund at the end of each fiscal year. If less than \$100,000 remains after the core ACM bureau programs are completed, then the grant would be proportionally decreased.

Simultaneously, this proposal expands potential use of this same appropriation to include agricultural stewardship grants. Grants could be provided to nonprofit, government and educational organizations for environmental research or education on commercial farms, with funding allocated between these purposes at the discretion of the secretary.

Affects s. 20.115(4)(q), 93.32

### Funding Agricultural Clean Sweeps from the Recycling Fund and Optionally Merging Agricultural and Urban Clean Sweeps

The Department currently manages the Agricultural Clean Sweep Program, with grants to Wisconsin counties paid from the ACM Fund. Simultaneously, the Department of Natural Resources operates a much smaller Urban Clean Sweep grant program, using funds transferred from the Agrichemical Management Fund to the Environmental Fund. While the details of each program’s grant requirements differ to some extent, the grant solicitation and award system are already coordinated to minimize costs and allow a single collection event to include both urban and agricultural collections. Under this proposal the “imaginary line” between these two programs could largely be erased.

While local grants for clean sweeps are currently funded exclusively from pesticide fees (and occasional federal grants), collection records reveal less than half of all wastes

collected are pesticides. For urban sweeps 70% to 90% of products are paints, finishes and various petrochemical solvents. For agricultural sweeps, up to 50% are pesticides, with the balance being hydraulic fluid and other petrochemicals (excluding motor oils), acids and cleaners, paints, anti-freeze and veterinary supplies.

Recycling efforts have long been a component of sweep programs. The Agricultural Sweeps have undertaken container recycling efforts, including coordination with an industry sponsored program that gathers more than 180,000 pounds of plastic containers each year. Both urban and agricultural efforts also incorporate or promote recycling of other used products such as batteries, motor oil and metals. Some permanent sites also provide for re-use of chemicals that would otherwise become wastes.

Given the broad expanse of products collected through urban and agricultural clean sweeps, a funding stream that is exclusively based on pesticide revenues is not equitable. The Department recommends \$500,000 annually be transferred from the broad-based Recycling Fund to the ACM Fund to fund local Clean Sweep grants. This funding source better represents the wide spectrum of businesses that produce the products representative of the chemical wastes collected during clean sweeps. To the extent that sweep programs are successful in reducing chemical wastes deposited in our landfills, the landfill tipping fees deposited to the recycling fund are also an excellent match. Clean sweeps also provide recycling opportunities and education while providing an alternative chemical and container waste collection and disposal option that reduces both recyclables and toxins deposited in landfills.

As an additional option, the Department suggests that the relatively small urban program could be incorporated into DATCP's much larger agricultural sweep program. Under this option the \$150,000 in agrichemical revenues currently transferred to the Environmental Fund for urban clean sweeps would be retained in the Agrichemical Management Fund and the Urban Clean Sweep grants would be funded from the ACM Fund instead of the Environmental Fund. Under this option, the Department would provide a combined \$500,000 (minimal level) to \$650,000 (near current level) in county and municipal grants, drawn from the combination of pesticide fees and Recycling fund revenues. Merging administration of these two grant programs would save local grant preparation and reporting efforts and may further improve efficiencies in waste disposal. DATCP would maintain the current ag/urban fund allocation, but a combined program could enable transfers of unexpended funds between these purposes to maximize the program's waste collection goal.

To the extent that current revenues may not fully cover the level of Clean Sweeps that this state wishes to support through local grants, the Department believes an incremental change in Recycling Fund fees is appropriate to achieving the benefits of maintaining clean sweep grants. The importance of clean sweep programs is apparent in the waste volumes gathered and these waste volumes simultaneously contribute to increased competition between contractors. Chemical waste disposal costs in the state have dropped from an average \$4.69 per pound in 1992 to a current level less than \$2.00. In essence, the waste volumes collected as a result of Clean Sweeps benefit a broad

spectrum of state programs through reduced waste disposal costs. Sweeps also provide an affordable chemical waste disposal option for homeowners, farmers and some other small companies, all while keeping toxic compounds out of landfills and providing another opportunity for recycling and education to a receptive audience. Both the corporate tax surcharge and landfill tipping fee of the Recycling fund are appropriate sources for preserving clean sweeps.

Affects ss. 20.115(7)(v), 20.370(6)(bs), 25.46(4), 93.55, 94.681(7)(a)2. and 299.41 Stats.

#### Capping Environmental Fund Revenues

Current shortfalls in the Agrichemical Management Fund can be largely attributed to increases in fees transferred from those fee sources. While recovery of past revenues diverted to cover shortfalls in the General Fund and Environmental Fund are believed to be unattainable under current state fiscal circumstances, the Department believes it is necessary to limit the continuing nature of these drains on agrichemical fee resources.

To that end, this proposal seeks a cap on funds diverted from agrichemical management fees that would otherwise support the agrichemical management fund. Although current statutes dictate per-unit fees on fertilizers and pesticides, this proposal places a lump sum cap of \$1,150,000. This amount matches the current fee level transferred to the Environmental Fund, after retention of the urban clean sweep revenues and expenses mentioned separately above. This approach assures that transfers to the Environmental Fund do not continue growing while shortfalls in the Agrichemical Management Fund continue. Any revenues in excess of this cap would be retained in the Agrichemical Management Fund. Alternatively, the cap could be implemented through limits on the formula used to calculate the transfer amount, such as capping the number of product registration fees transferred or the number of fertilizer tons on which fees are paid to DNR.

Affects ss. 25.46, 94.64, 94.65, 94.681

#### ASSOCIATED BUDGET POLICY ISSUES

While the Department appreciates the need to separate policy issues from fiscal issues, particularly during this budget cycle, there are two issues that “ride the fence” between budget and policy:

- Currently pesticide fees under s. 94.681, Stats are based on sales of those pesticides in the “preceding year”, as defined in that section. Each time the fee structure is modified the “preceding year” basis actually results in either a year delay in implementing a revised fee structure, or in retroactive collections by forcing the fee structure on sales that previously occurred. The department recommends revising this fee structure, such that fees be based on sales for the same year in which those sales occur. In consultation with the industry, an estimated fee payment structure

combined with an end of year reconciliation would be an effective way of assuring an ongoing revenue stream for the ACM and ACCP Funds.

- Current statutes also require that the ACCP Fund maintain a fund balance between \$2 million and \$5 million. The minimum is not possible under current surcharge limitations, nor is it deemed essential by the department or the industry that both pays into and benefits from the fund. The maximum appears excessive based on past transfers of these surcharge revenues. This proposal would eliminate the minimum balance and reduce the maximum balance to \$3 million.

The Department believes these two policy issues have important budgetary impacts on the agrichemical industry and should be included with the other portions of this budget recommendation.

Affects ss. 94.681 and 94.73(15)

## ALTERNATIVES

Retain, in the ACM Fund, a Portion of Revenues Transferred to the Environmental Fund  
As an alternative to the Clean Sweep components of this proposal, the legislature could authorize DATCP to retain an amount of agrichemical fees transferred to the environmental fund. This could be based on an amount committed by the agricultural sector to support DNR's groundwater coordination efforts, combined with other pesticide related activities of DNR. While overall agrichemical functions have largely been transferred to the Agrichemical Management Fund, the revenue transfers to the Environmental Fund have increased over time to fill deficits unrelated to agrichemicals. This proposal would maintain revenue commitments for groundwater programs and related agrichemical efforts of DNR, and seek alternative funding for DNR activities that are not related to agrichemicals.

In discussions, the Department of Natural Resources acknowledges that they have not tracked program expenses in Environmental Fund by the types of contaminants. These program staff note that when the groundwater account was established in the mid 1980s, no one knew what chemicals would be found to contribute what portion of the overall program costs this fund would face in the future years. Hence, the various industry sectors were asked to contribute without assurance that each sector would be paying only for problems their sector created.

After nearly 20 years, a reasonable track record has been developed that identifies which contaminants are costing what amounts. An analysis of revenues and expenditures within the Environmental Fund, combined with a review of responsibilities under that fund, might be appropriate to assess what industry or general public sector contributions best reflect the future funding mix and levels appropriate to each purpose. The analysis could include related funds such as the ACM and ACCP,



Notwithstanding the issues, effort and time that a complete analysis may require, the Department has undertaken a review of agrichemical portion of activities under the Environmental Fund and found those activities total no more than \$512,000 per year. Current transfers total approximately \$1,287,000. This alternative would maintain approximately \$540,000 to cover the agrichemical sector's original groundwater commitment plus additional agrichemical activities related to waste management and related matters that extend beyond the original groundwater commitment, also funded by the umbrella of the Environmental Fund. Remaining funds would be retained in the Agrichemical Management Fund

Investigate Appropriate Alternative Funds to Maintain the Environmental Fund

Retaining funds within the ACM Fund to cover program expenses now conducted by the Agrichemical Management Bureau of the Department may leave a deficit in the Environmental Fund. The Department is limited in the advice it can provide to recommend the most equitable means of correcting this deficit, particularly since DNR has not tracked expenditures by contaminant class. The Department offers its support to an analysis of Environmental Fund expenditures, as needed to identify and develop appropriate revenue sources.

Possible funding alternatives are the energy conservation and efficiency and renewable resource portion of the utility public benefits fund and/or the recycling fund. These could be used, as needed, to offset a shortfall in the Environmental Fund.

## APPENDIX A

### Statutory Language for Agrichemical Management and Agricultural Chemical Cleanup Funds

Incorporate all of AB 800 (copy attached), with the following changes:

1. Eliminate all fee increases.

2. Replace SECTION 1 with the following:

SECTION \_\_\_. 20.115(4)(q) of the statutes is repealed and recreated to read:  
20.115(4)(q) *Grants for agriculture in the classroom and agricultural stewardship initiative.* From the agrichemical management fund, subject to a determination under s. 93.32(1), the amounts in the schedule for purposes identified in s. 93.32(2).

SECTION \_\_\_. 20.115(7)(v) of the statutes is repealed.

SECTION \_\_\_. 20.115(7)(va) of the statutes is created to read:  
20.115(7)(va) *Farm chemical and container disposal.* From the recycling fund, the amounts in the schedule for farm chemical and container collection grants under s. 93.55(2).

SECTION \_\_\_. 20.115(7)(vm) of the statutes is created to read:  
20.115(7)(vm) *Household hazardous waste disposal.* From the agrichemical management fund, the amounts in the schedule for household hazardous waste collection grants under s. 93.55(2g).

SECTION \_\_\_. 20.370(6)(bs) of the statutes is repealed.

SECTION \_\_\_. 25.46(2) of the statutes is repealed and recreated to read:  
25.46(2) The moneys deposited to the environmental fund under ss. 94.64(4)(a)4., 94.65(6)(a)4., and 94.681(7)(a) for environmental management, except that the total amount deposited from these sources may not exceed \$1,150,000 in any fiscal year.

SECTION \_\_\_. 25.46(3) to (4s) of the statutes are repealed.

SECTION \_\_\_. 25.465(3) of the statutes is repealed and recreated to read:  
25.465(3) The fees collected under s. 94.681(2) to (6), except as provided in s. 94.681(7).

3. Insert the following after SECTION 2:

SECTION \_\_\_. 93.32 of the statutes is repealed and recreated to read:

**93.32 Agriculture in the classroom and agricultural stewardship programs.**

(1) From the appropriation account under s. 20.115(4)(q), the department shall provide grants for purposes identified in sub. (2) if the secretary determines that other programs funded from the agrichemical management fund are adequately funded.

(2) The department shall provide both the following under sub. (1), at the secretary's discretion:

1. Grants to the organization that conducts an agriculture in the classroom program in cooperation with the federal department of agriculture to help teachers educate students about agriculture.

2. Grants to nonprofit organizations, governmental agencies or educational institutions for environmental research on commercial farms operating in this state, and for education related to environmental practices on farms.

SECTION \_\_. 93.55(1)(a) of the statutes is amended to read:

93.55(1)(a) "~~Chemical~~ Farm chemical" means a chemical, including a pesticide, that is used for agricultural purposes.

SECTION \_\_. 93.55(1)(am) of the statutes is created to read:

93.55(1)(am) "Household hazardous waste" means hazardous waste, as defined in s. 291.01(7), that is generated by residential households.

SECTION \_\_. 93.55(2) of the statutes is amended to read:

93.55(2) FARM CHEMICAL COLLECTION GRANTS. The department may award a grant to a county for a farm chemical and container collection program. A grant under this subsection shall fund all or part of the costs of a program. Costs eligible for funding include the cost of establishing a collection site for farm chemicals and containers, the cost of transporting chemical containers to a dealer or distributor for refill and reuse or to a hazardous waste facility, as defined in s. 291.01(8), and costs associated with the proper use and handling and disposal or recycling of chemicals and chemical containers. Grants shall be paid from the appropriation under s. ~~20.115(7)(v)~~ 20.115(7)(va). At the end of any grant year, the department may use any unexpended appropriations under s. 20.115(7)(va) to reimburse that year's grant recipients for collection and disposal costs under this subsection that exceeded their grant awards for that year.

SECTION \_\_. 93.55(3) of the statutes is created to read:

93.55(3) RULES. The department may promulgate rules to govern grant payments under this section.

**4. Replace SECTIONS 3 to 5 with the following:**

SECTION \_\_. 94.64(4)(a)1. and 4. of the statutes are amended to read:

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

(a)4. A groundwater fee of 10 cents per ton, with a minimum fee of \$1. The department shall deposit groundwater fees collected under this subdivision to the environmental fund for environmental management, except as provided in s. 25.46(2).

**5. Insert the following before SECTION 6:**

SECTION \_\_. 94.65(6)(a)4. of the statutes is amended to read:

94.65(6)(a)4. Annually, by March 31, pay to the department a groundwater fee of 10 cents for each ton of soil or plant additive distributed, as described in the tonnage report filed under subd. 1. The minimum groundwater fee is \$1 for 10 tons or less. All groundwater fees shall be credited to the environmental fund for environmental management, except as provided in s. 25.46(2).

**6. Replace SECTION 11 with the following:**

SECTION \_\_. 94.681(7) is repealed and recreated to read:

94.681(7) USE OF FEES AND SURCHARGES. The department shall deposit all license fees and surcharges collected under subs. (2) to (6) in the agrichemical management fund, except that:

(a) The department shall deposit the following amounts in the environmental fund for environmental management, except as provided in s. 25.46(2):

1. \$94 for each pesticide product for which an applicant pays a license fee under sub. (2), (5) or (6)(a)3.

2. The cleanup surcharges collected under subs. (3m) and (6)(a)5.

3. The well compensation fees collected under sub. (4).

(b) The department shall deposit the cleanup surcharges collected under subs. (3) and (6)(a)4. in the agricultural chemical cleanup fund.

**7. Replace SECTIONS 14 to 15 with the following:**

SECTION \_\_. 94.72(6)(a)1. of the statutes is repealed.

**8. Insert the following after SECTION 18:**

SECTION \_\_. 299.41 of the statutes is renumbered 93.55(2g) and amended to read:

93.55(2g) HOUSEHOLD HAZARDOUS WASTE COLLECTION GRANTS. The department shall ~~establish and~~ administer a grant program to assist municipalities and regional planning commissions in creating and operating local programs for the collection and disposal of household hazardous waste. Grants shall be paid from the appropriation under s. 20.115(7)(vm). At the end of any grant year, the department may use any unexpended appropriation under s. 20.115(7)(vm) to reimburse that year's grant recipients for collection and disposal costs under this subsection that exceeded their grant awards for that year.

**9. Replace SECTION 20 with the following:**

**SECTION \_\_. Effective date.**

(1) AGRICULTURAL CHEMICAL CLEANUP PROGRAM REIMBURSEMENT. The treatment of section 94.73(6)(b) and (c)(intro) of the statutes and SECTION xx (1) take effect on January 1, 2004 *[Drafter Note: This date change is the only change to this subsection.]*

(2) AMOUNT DEPOSITED IN ENVIRONMENTAL FUND. The treatment of sections 25.46(2) to (4)(s), 94.64(4)(a)4., 94.65(4)(a)4. and 94.681(7) of the statutes takes effect on July 1, 2003.

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

## 2001 ASSEMBLY BILL 800

February 12, 2002 – Introduced by Representatives OTT, OLSEN, HINES, PETROWSKI, VRAKAS, SYKORA, GUNDERSON and MILLER, cosponsored by Senators HANSEN and SCHULTZ. Referred to Committee on Agriculture.

1     **AN ACT 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.

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### ***Analysis by the Legislative Reference Bureau***

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 fertilizer in this state to obtain an annual license from DATCP. A person who is

**ASSEMBLY BILL 800**

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 specify a surcharge of 38 cents per ton. This bill increases the maximum agricultural chemical cleanup surcharge by 50 cents per ton.

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.

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 specified maximum. This bill reduces the reimbursement rate under the agricultural chemical cleanup program from 80% to 75%.

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 an applicant for a pesticide manufacturer or labeler license are based on sales during the 12 month period that ends on September 30 of the license year. When the person applies for a license, the person pays the fees and surcharges based on estimated 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.

Under current law, pesticide manufacturer or labeler license fees 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 pesticide for which a licensee pays a fee is deposited into the environmental fund.

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 also requires DATCP to adjust the surcharge amounts as necessary to

**ASSEMBLY BILL 800**

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 reduces the maximum balance to \$3,000,000.

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

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*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:



**ASSEMBLY BILL 800****SECTION 5**

1           94.64 (4) (a) 5. An agricultural chemical cleanup surcharge of ~~38~~ 88 cents per  
2 ton on all fertilizer that the person sells or distributes in this state ~~after June 30,~~  
3 1999, unless the department establishes a lower surcharge under s. 94.73 (15).

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

5           94.681 (1) (cm) "Payment period" means the 12 months ending on September  
6 30 of the calendar year for which a license is sought under s. 94.68.

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

8           94.681 (2) ANNUAL LICENSE FEE. An applicant for a license under s. 94.68 shall  
9 pay an annual license fee for each pesticide product that the applicant sells or  
10 distributes for use in this state. The amount of the fee is based on sales of pesticide  
11 products during the payment period. An applicant shall pay an estimated fee before  
12 the start of each license year as provided in sub. (3s) (a) and shall make a fee  
13 adjustment payment before the end of the license year if required under sub. (3s) (b).  
14 Except as provided in sub. (5) or (6), the fee for each pesticide product is as follows:

15           (a) For each household 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, \$265.

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, \$750.

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

22           (b) For each industrial pesticide product:

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

**ASSEMBLY BILL 800**

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, \$860.

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

5           (c) For each nonhousehold pesticide product:

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

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

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

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

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

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

## ASSEMBLY BILL 800

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

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

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

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

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

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

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

**ASSEMBLY BILL 800**

1 revenues from sales of the product during the ~~preceeding year~~ payment period for use  
2 in this state.

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

4 **94.681 (3s) PAYMENT OF FEES AND SURCHARGES.** (a) Before the start of a license  
5 year, an applicant shall estimate the gross revenues that the applicant will receive  
6 from sales of each pesticide product during the payment period that ends during the  
7 year for which a license is sought under s. 94.81 and shall pay the amounts under  
8 subs. (2), (3), and (3m) based on that estimate. At least 15 days before beginning to  
9 sell a new pesticide product in this state, a licensee shall estimate the gross revenues  
10 that the applicant will receive from sales of that pesticide product during the  
11 payment period in which the licensee begins to sell the pesticide product and shall  
12 pay the amounts under subs. (2), (3), and (3m) based on that estimate.

13 (b) Before the end of a license year, a licensee shall report to the department  
14 the gross revenues that the licensee received from sales of each pesticide product  
15 during the payment period that ended during the license year, as required under s.  
16 94.68 (2) (a) 2., and shall reconcile the estimated payment made under par. (a) with  
17 the amounts actually due under subs. (2), (3), and (3m) as follows:

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

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

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

## ASSEMBLY BILL 800

## SECTION 10

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

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

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

11 94.681 (7) (a) *License fees.* The department shall deposit all license fees  
12 collected under subs. (2), (5), and (6) (a) 3. in the agrichemical management fund  
13 except as follows: ~~1. The that the department shall deposit an amount equal to \$94~~  
14 ~~\$60 for each household pesticide and industrial pesticide product for which an~~  
15 applicant pays a license fee in the environmental fund for environmental  
16 management.

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

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

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

20 94.72 (6) (a) 2. For commercial feeds distributed in this state beginning on or  
21 after January 1, 2002, and ending on December 31, 2002, a feed inspection fee of 23  
22 cents per ton.

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

24 94.72 (6) (a) 2m. For commercial feeds distributed in this state on or after  
25 January 1, 2003, a feed inspection fee of 28 cents per ton or \$30, whichever is greater.

**ASSEMBLY BILL 800**

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

2           *yes* 94.73 (6) (b) Except as provided in pars. (c) and (e), the department shall  
3 reimburse a responsible person an amount equal to ~~80%~~ 75% of the corrective action  
4 costs incurred for each discharge site that are greater than \$3,000 and less than  
5 \$400,000.

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

7           *yes* 94.73 (6) (c) (intro.) Except as provided in par. (e), the department shall  
8 reimburse a responsible person an amount equal to ~~80%~~ 75% of the corrective action  
9 costs incurred for each discharge site that are greater than \$7,500 and less than  
10 \$400,000 if any of the following applies:

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

12           94.73 (15) (a) The department may, by rule, reduce any of the surcharges in ss.  
13 94.64 (3r) (b) and (4) (a) 5., 94.681 (3), 94.685 (3) (a) 2., 94.703 (3) (a) 2., and 94.704  
14 (3) (a) 2. below the amounts specified in those provisions. The department shall  
15 adjust surcharge amounts as necessary to maintain a balance in the agricultural  
16 chemical cleanup fund at the end of each fiscal year of ~~at least \$2,000,000 but not~~  
17 ~~more than \$5,000,000~~ \$3,000,000, but may not increase a surcharge amount over the  
18 amount specified in s. 94.64 (3r) (b) or (4) (a) 5., 94.681 (3), 94.685 (3) (a) 2., 94.703  
19 (3) (a) 2., or 94.704 (3) (a) 2.

20           **SECTION 19. Initial applicability.**

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

24           **SECTION 20. Effective date.**



SOON (in 10/18)

Agency budget draft

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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*Don't GEN. CAT.* *payment of*  
 AN ACT ..., relating to: fees and surcharges related to pesticides, fertilizer, and  
 feed, reimbursement under the Agricultural Chemical Cleanup program,  
 deposits to the agrichemical management fund and to the environmental fund,  
 and the required balance in the agricultural chemical cleanup fund, grants for  
 hazardous waste collection and disposal, grants for agriculture in the classroom  
 programs, requiring the exercise of rule-making authority, and making an  
 appropriation.

*Analysis by the Legislative Reference Bureau*

**AGRICULTURE**

This bill makes numerous changes related to the agrichemical management fund and moneys that are deposited in that fund.

~~Current law generally requires a person who manufactures or distributes fertilizer in this state to obtain an annual license from 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. The basic fee is deposited in the agrichemical management fund. This bill increases the basic fee to 45 cents per ton for fertilizer sold or distributed after June 30, 2003, but does not change the \$25 minimum fee.~~

~~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 and it is deposited in the agrichemical management fund. 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 and the fee is deposited in the agrichemical management fund. This bill increases the annual feed inspection fee for feed sold after December 31, 2003, to 28 cents per ton or \$25, 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 an applicant for a pesticide manufacturer or labeler license are based on sales during the 12-month period that ends on September 30 of the license year. When the person applies for a license, the person pays the fees and surcharges based on estimated sales during that 12-month 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.

Under current law, pesticide manufacturer or labeler license fees 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. This bill eliminates the \$30 environmental fund deposit for each household pesticide. In addition, the bill provides that the amount deposited into the environmental fund in each fiscal year from license fees, nonhousehold pesticide cleanup surcharges, and wood preservative cleanup surcharges paid by pesticide manufacturers and labelers and groundwater fees paid by fertilizer and soil and plant additive licensees is limited to \$1,150,000. Any additional amount of those fees and surcharges is deposited into the agrichemical cleanup fund. Under current law, there is no limit on the amount deposited into the environmental fund.

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 also 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 reduces the maximum balance to \$3,000,000.

Currently, a person who is licensed to manufacture or distribute fertilizer must pay an agricultural chemical cleanup surcharge of 38 cents per ton of fertilizer sold

Insert  
from  
p. 3

management

<sup>-3-</sup>  
to use the appropriation for

or distributed, unless DATCP establishes a lower surcharge by rule. DATCP rules specify a surcharge of 38 cents per ton. This bill provides that the agricultural chemical cleanup surcharge is 50 cents per ton, unless the rules specify a lower surcharge.

\* 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 specified maximum. This bill reduces the reimbursement rate under the agricultural chemical cleanup program from 80% to 75%.

\* Under current law, DATCP makes grants to counties for farm chemical and container collection programs. The grants are funded from the agrichemical management fund. This bill changes the source of funding for the farm chemical and container grants to the recycling fund.

Current law requires DATCP to provide grants to an organization that conducts an agriculture in the classroom program to help teachers educate students about agriculture. The grants are funded from the agrichemical management fund.

This bill requires DATCP to pay agriculture in the classroom grants at the end of each fiscal year and prohibits DATCP from making grants in an amount that exceeds the unencumbered balance in the agrichemical management fund at the end of the fiscal year.

move to p. 2

authorizes

### ENVIRONMENT

#### HAZARDOUS SUBSTANCES AND ENVIRONMENTAL CLEANUP

Under current law, DNR makes grants for local programs for the collection and disposal of hazardous waste generated by households. The grants are funded from the environmental fund.

This bill transfers the household hazardous waste grant program to DATCP and changes the funding source to the agrichemical management fund.

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

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

1 SECTION 1. 20.115 (7) (v) of the statutes is amended to read:  
2 20.115 (7) (v) *Chemical and container disposal.* From the agrichemical  
3 management recycling fund, the amounts in the schedule for farm chemical and  
4 container collection grants under s. 93.55 (2).

5 SECTION 2. 20.370 (6) (bs) of the statutes is renumbered 20.115 (7) (vm) and  
6 amended to read:

for grants for environmental research on farms, and for education related to environmental practices on farms. The bill requires DATCP to make these grants

1           20.115 (7) (vm) ~~Environmental aids~~ household Household hazardous waste  
 2 disposal. From the environmental agrichemical management fund, the amounts in  
 3 the schedule for ~~grants to municipalities under the~~ household hazardous waste  
 4 collection and disposal ~~program grants~~ under s. ~~299.41~~ 93.55 (3).

      \*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

5           **SECTION 3.** 25.46 (2) of the statutes is repealed.

6           **SECTION 4.** 25.46 (3) of the statutes is repealed.

7           **SECTION 5.** 25.46 (4) of the statutes is repealed.

8           **SECTION 6.** 25.46 (4m) of the statutes is repealed.

9           **SECTION 7.** 25.46 (4s) of the statutes is repealed.

10          **SECTION 8.** 25.46 (4u) of the statutes is created to read:

11          25.46 (4u) The moneys specified in s. 94.80.

12          **SECTION 9.** 25.465 (3) of the statutes is amended to read:

13          25.465 (3) The fees collected under s. 94.681 (2), (5), and (6) (a) 3., except as  
 14 provided in s. ~~94.681 (7) (a)~~ 94.80.

15          **SECTION 10.** 25.465 (8) of the statutes is amended to read:

16          25.465 (8) The fees collected under s. 94.72 (5) (b) and (6) (a) ~~1. and 2.~~ and 2m.  
 17 and (i).

18          **SECTION 11.** 25.465 (9) of the statutes is created to read:

19          25.465 (9) The moneys specified in s. 94.80 (2).

Insert →  
204-19

20          **SECTION 12.** 93.32 of the statutes is renumbered 93.32 (1) <sup>(intro.)</sup> and amended to read:

21          93.32 (1) <sup>(intro.)</sup> ~~From~~ Subject to sub. (2), from the appropriation account under s.  
 22 20.115 (4) (q), the department shall provide grants to the organization that conducts may do all of the following: # (a) Provide

1 an agriculture in the classroom program in cooperation with the federal department  
2 of agriculture to help teachers educate students about agriculture.

*Insert*  
*5-2* →  
3 **SECTION 13.** 93.32 (2) of the statutes is created to read:

4 93.32 (2) The department shall pay grants under sub. (1) at the end of each  
5 fiscal year and may not make grants in any fiscal year in an amount that exceeds the  
6 unencumbered balance in the agrichemical management fund after moneys to cover  
7 all other obligations from the fund for that fiscal year have been encumbered.

8 **SECTION 14.** 93.55 (1) (a) of the statutes is amended to read:

9 93.55 (1) (a) “~~Chemical~~ Farm chemical” means a chemical, including a  
10 pesticide, that is used for agricultural purposes.

11 **SECTION 15.** 93.55 (1) (am) of the statutes is created to read:

12 93.55 (1) (am) “Household hazardous waste” means hazardous waste, as  
13 defined in s. 291.01 (7), that is generated by residential households.

14 **SECTION 16.** 93.55 (2) of the statutes is amended to read:

15 93.55 (2) ~~COLLECTION~~ FARM CHEMICAL COLLECTION GRANTS. The department may  
16 award a grant to a county for a farm chemical and container collection program. A  
17 grant under this subsection shall fund all or a part of the cost of a program. Costs  
18 eligible for funding include the cost of establishing a collection site for farm chemicals  
19 and farm chemical containers, the cost of transporting farm chemical containers to  
20 a dealer or distributor for refill and reuse or to a hazardous waste facility, as defined  
21 in s. 291.01 (8), and costs associated with the proper use and handling and disposal  
22 or recycling of farm chemicals and farm chemical containers. Grants shall be paid  
23 from the appropriation under s. 20.115 (7) (v).

24 **SECTION 17.** 93.55 (4) of the statutes is created to read:

1           93.55 (4) RULES. The department shall promulgate rules for the disbursement of  
2 grants under subs. (2) and (3). The rules may provide that at the end of a fiscal year  
3 unexpended funds under one of those subsections may be used to reimburse grant  
4 recipients under that subsection for eligible collection and disposal costs incurred in  
5 excess of the amount of the grant awarded in that fiscal year.

6           **SECTION 18.** 94.64 (3m) (b) (intro.) of the statutes is amended to read:

7           ~~94.64 (3m) (b) (intro.) An application for a permit under par. (a) 2, shall be on  
8 a form prescribed by the department and shall be accompanied by a proposed product  
9 label and a nonrefundable fee of \$25 \$100. The department may require that the  
10 applicant substantiate, by scientific evidence:~~

11           **SECTION 19.** 94.64 (4) (a) 1. of the statutes is amended to read:

12           ~~94.64 (4) (a) 1. A basic fee of 23 30 cents per ton for fertilizer sold or distributed  
13 beginning on October 29, 1999, and ending on June 30, 2001 before July 1, 2003, and  
14 30 45 cents per ton for fertilizer sold or distributed after June 30, 2001 2003, with  
15 a minimum fee of \$25.~~

16           **SECTION 20.** 94.64 (4) (a) 5. of the statutes is amended to read:

17           ~~94.64 (4) (a) 5. An agricultural chemical cleanup surcharge of 38 88 cents per  
18 ton on all fertilizer that the person sells or distributes in this state after June 30,  
19 1999, unless the department establishes a lower surcharge under s. 94.73 (15).~~

20           **SECTION 21.** 94.64 (4) (c) 4. of the statutes is repealed.

21           **SECTION 22.** 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 23.** 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 24.** 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 25.** 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 26.** 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. 94.68 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 27.** 94.681 (7) (a) (intro.) of the statutes is renumbered 94.681 (7) (a)  
2 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: provided in s. 94.80.

6           **SECTION 28.** 94.681 (7) (a) 1. of the statutes is repealed.

7           **SECTION 29.** 94.681 (7) (a) 2. of the statutes is repealed.

8           **SECTION 30.** 94.681 (7) (bm) of the statutes is repealed.

9           **SECTION 31.** 94.681 (7) (c) of the statutes is repealed.

10          ~~**SECTION 32.** 94.72 (6) (a) 1. of the statutes is repealed.~~

11          ~~**SECTION 33.** 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 ~~on or after~~ before~~  
13 ~~January 1, 2002 2004, a feed inspection fee of 23 cents per ton.~~

14          ~~**SECTION 34.** 94.72 (6) (a) 2m. of the statutes is created to read:~~

15          ~~94.72 (6) (a) 2m. For commercial feeds distributed in this state after December~~  
16 ~~31, 2003, a feed inspection fee of 28 cents per ton, with a minimum fee of \$25.~~

17          **SECTION 35.** 94.73 (6) (b) of the statutes is amended to read:

18          94.73 (6) (b) Except as provided in pars. (c) and (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 \$3,000 and less than  
21 \$400,000.

22          **SECTION 36.** 94.73 (6) (c) (intro.) of the statutes is amended to read:

23          94.73 (6) (c) (intro.) Except as provided in par. (e), the department shall  
24 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 37.** 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 38.** 94.80 of the statutes is created to read:

13 **94.80 Environmental fund deposits.** (1) Subject to sub. (2), the department  
14 shall deposit all of the following in the environmental fund:

15 (a) The fees collected under s. 94.64 (4) (a) 4.

16 (b) The fees collected under s. 94.65 (6) (a) 4.

17 (c) From the license fees collected under s. 94.681 (2), (5), and (6) (a) 3., an  
18 amount equal to \$94 for each pesticide product for which an applicant pays a license  
19 fee.

20 (d) The surcharges collected under s. 94.681 (3m) and (6) (a) 5.

21 (e) The fees collected under s. 94.681 (4).

22 (2) Once the amount deposited in the environmental fund under sub. (1) equals  
23 \$1,150,000 in any fiscal year, the department shall deposit all additional fees  
24 collected under s. 94.64 (4) (a) 4., fees collected under s. 94.65 (6) (a) 4., license fees  
25 collected under s. 94.681 (2), (5), and (6) (a) 3., surcharges collected under s. 94.681

1 (3m) and (6) (a) 5., and fees collected under s. 94.681 (4) during that fiscal year in the  
2 agrichemical management fund.

3 **SECTION 39.** 299.41 of the statutes is renumbered 93.55 (3) and amended to  
4 read:

5 **93.55 (3) HOUSEHOLD HAZARDOUS WASTE COLLECTION GRANTS.** The department  
6 shall ~~establish and~~ administer a grant program to assist municipalities and regional  
7 planning commissions in creating and operating local programs for the collection and  
8 disposal of household hazardous waste. Grants shall be paid from the appropriation  
9 under s. 20.115 (7) (vm).

10 **SECTION 40.** 895.55 (2) (intro.) of the statutes is amended to read:

11 895.55 (2) (intro.) Notwithstanding any provision of s. 299.11, 299.13, 299.31,  
12 ~~299.41, 299.43, 299.45, 299.51, 299.53, or 299.55~~, subchs. II and IV of ch. 30, ch. 29,  
13 166, 281, 283, 289, 291, or 292 or subch. II of ch. 295, or any other provision of this  
14 chapter, a person is immune from liability for damages resulting from the person's  
15 acts or omissions and for the removal costs resulting from the person's acts or  
16 omissions if all of the following conditions are met:

17 **SECTION 9304. Initial applicability; agriculture, trade and consumer**  
18 **protection.**

19 (1) **AGRICULTURAL CHEMICAL CLEANUP PROGRAM REIMBURSEMENT.** The treatment  
20 of section 94.73 (6) (b) ✓ and (c) ✓ (intro.) of the statutes first applies to costs incurred on  
21 the effective date of this subsection.

22 **SECTION 9404. Effective dates; agriculture, trade and consumer**  
23 **protection.**

1 (1) AGRICULTURAL CHEMICAL CLEANUP PROGRAM REIMBURSEMENT. The treatment  
2 of section 94.73 (6) (b) and (c) (intro.) of the statutes and SECTION 9304 (1) take effect  
3 on January 1, 2004.

4 (2) PESTICIDE FEES AND SURCHARGES. The treatment of section 94.681 (1) (cm),  
5 (2), (3), (3m), and (3s) of the statutes takes effect on December 1, 2003.

6 (END)

*of this act*

Insert 4-19 ✓

Section #. 93.32 (title) of the statutes is amended to read:

93.32 (title) **Agriculture in the classroom program.**

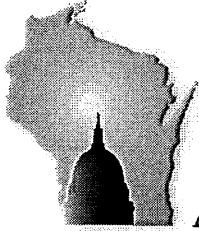
and agricultural stewardship grants

History: 2001 a. 16.

Insert 5-2 ✓

§ Section #. CL; 93.32 (1) (b)

§ 93.32 (1) (b) Provide grants<sup>ts</sup> to nonprofit organizations,  
governmental agencies, or educational institutions for  
environmental research on farms<sup>farms</sup> operating in this state  
and for education related to environmental practices  
on farms.



**WISCONSIN DEPARTMENT OF  
ADMINISTRATION**

SCOTT McCALLUM  
GOVERNOR

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**Date:** October 21, 2002

**To:** Stephen R. Miller, Chief  
Legislative Reference Bureau

**From:** William D. Walker *WDW*  
Policy and Budget Analyst  
ECR Team

**Subject:** **Biennial Budget Drafting Request**  
Agency 115 – Department of Agriculture, Trade and Consumer Protection  
(DATCP)

*B150198*

Budget Office Request Title:

Agrichemical Management Fund and Agricultural Chemical Cleanup Fund Changes

Request Description:

Make the following changes to the named funds. The overall intent of these changes is to retain a greater share of the funds' revenues and to make administrative changes relating to fee payments and fund balances. This request is similar to 2001 AB 800. Please see the attached request from DATCP for details.

**This is a low priority request. Items listed first have highest relative priority.**

- 1) *Payment year.* Base license fees on a payment period defined as the 12 months ending on September 30 of the calendar year in which the license is sought. Include provisions for overpayment or payments due at the end of the license period. Include a penalty where a licensee estimates less than 90% of prior year sales but where the year end payment due is greater than 20% of the payment based on estimated sales.
- 2) *ACCP balance limits.* Replace the \$2 million minimum / \$5 million minimum ACCP limits with a \$3 million maximum (e.g., s. 94.73 (15) (a)).
- 3) *ACCP reimbursement percentage.* Reduce the reimbursement percentage for eligible ACCP costs from 80% to 75% (e.g., s. 94.73(6) (c)).
- 4) *Urban clean sweep authority.* Transfer the urban clean sweep program from DNR to DATCP (e.g., ss. 299.41).
- 5) Retain the \$30 fee urban clean sweep fee in the ACM fund (e.g., 94.681(7)(a)2).



- 6) *Environmental fund.* Cap transfers to the environmental fund under ss. 94.64 (4) (a) 4, 94.65 (6) (a) 4 and 94.681 (7) (a) at \$1,150,000 *total* in each fiscal year. Deposit revenues beyond the cap into the agrichemical management fund.
- 7) *Funding for agriculture in the classroom.* Make funding for the agriculture in the classroom program contingent on availability of funds. (E.g., ss. 20.115 (4) (q) and 93.32.)
- 8) *Funding for the Wisconsin Agricultural Stewardship Initiative (WASI).* Allow the department to make grants for environmental research and education to the organizations participating in WASI. Make funding for WASI contingent on availability of funds. Further, have funding come from the agriculture in the classroom appropriation (20.115 (4) (q)) but with no increase in expenditure authority. (Note: please advise if a separate appropriation or no new appropriation would be preferable.)
- 9) *Agricultural clean sweep.* Fund the agricultural clean sweep program from the recycling fund (e.g., s. 93.55).

For LFB. This is the DATCP request for changes to ACM/ACCP.  
I think I drew out the interest but you're better at it. -Bill W.

**APPENDIX A**  
**Statutory Language for Agrichemical Management  
and Agricultural Chemical Cleanup Funds**

**Incorporate all of AB 800 (copy attached), with the following changes:**

- 1. Eliminate all fee increases.**
- 2. Replace SECTION 1 with the following:**

✓ SECTION \_\_\_. 20.115(4)(q) of the statutes is repealed and recreated to read:  
20.115(4)(q) *Grants for agriculture in the classroom and agricultural stewardship initiative.* From the agrichemical management fund, subject to a determination under s. 93.32(1), the amounts in the schedule for purposes identified in s. 93.32(2).

SECTION \_\_\_. 20.115(7)(v) of the statutes is repealed.

SECTION \_\_\_. 20.115(7)(va) of the statutes is created to read:  
20.115(7)(va) *Farm chemical and container disposal.* From the recycling fund, the amounts in the schedule for farm chemical and container collection grants under s. 93.55(2).

SECTION \_\_\_. 20.115(7)(vm) of the statutes is created to read:  
20.115(7)(vm) *Household hazardous waste disposal.* From the agrichemical management fund, the amounts in the schedule for household hazardous waste collection grants under s. 93.55(2g).

SECTION \_\_\_. 20.370(6)(bs) of the statutes is repealed.

✓ SECTION \_\_\_. 25.46(2) of the statutes is repealed and recreated to read:  
25.46(2) The moneys deposited to the environmental fund under ss. 94.64(4)(a)4., 94.65(6)(a)4., and 94.681(7)(a) for environmental management, except that the total amount deposited from these sources may not exceed \$1,150,000 in any fiscal year.

P.S. - ACM?  
(ag and water fee)

→ To ACM? (Ag water fee)

→ ACM! (statute is now drafted as an exception to general ACM deposit)

SECTION \_\_\_. 25.46(3) to (4s) of the statutes are repealed.

SECTION \_\_\_. 25.465(3) of the statutes is repealed and recreated to read:  
25.465(3) The fees collected under s. 94.681(2) to (6), except as provided in s. 94.681(7).

- 3. Insert the following after SECTION 2:**

✓ SECTION \_\_\_. 93.32 of the statutes is repealed and recreated to read:

**93.32 Agriculture in the classroom and agricultural stewardship programs.**

(1) From the appropriation account under s. 20.115(4)(q), the department shall provide grants for purposes identified in sub. (2) if the secretary determines that other programs funded from the agricultural management fund are adequately funded.

(2) The department shall provide both the following under sub. (1), at the secretary's discretion:

1. Grants to the organization that conducts an agriculture in the classroom program in cooperation with the federal department of agriculture to help teachers educate students about agriculture.

2. Grants to nonprofit organizations, governmental agencies or educational institutions for environmental research on commercial farms operating in this state, and for education related to environmental practices on farms.

SECTION \_\_. 93.55(1)(a) of the statutes is amended to read:

93.55(1)(a) "Chemical Farm chemical" means a chemical, including a pesticide, that is used for agricultural purposes.

SECTION \_\_. 93.55(1)(am) of the statutes is created to read:

93.55(1)(am) "Household hazardous waste" means hazardous waste, as defined in s. 291.01(7), that is generated by residential households.

SECTION \_\_. 93.55(2) of the statutes is amended to read:

93.55(2) FARM CHEMICAL COLLECTION GRANTS. The department may award a grant to a county for a farm chemical and container collection program. A grant under this subsection shall fund all or part of the costs of a program. Costs eligible for funding include the cost of establishing a collection site for farm chemicals and containers, the cost of transporting chemical containers to a dealer or distributor for refill and reuse or to a hazardous waste facility, as defined in s. 291.01(8), and costs associated with the proper use and handling and disposal or recycling of chemicals and chemical containers. Grants shall be paid from the appropriation under s. ~~20.115(7)(v)~~ 20.115(7)(va). At the end of any grant year, the department may use any unexpended appropriations under s. 20.115(7)(va) to reimburse that year's grant recipients for collection and disposal costs under this subsection that exceeded their grant awards for that year.

SECTION \_\_. 93.55(3) of the statutes is created to read:

93.55(3) RULES. The department may promulgate rules to govern grant payments under this section.

**4. Replace SECTIONS 3 to 5 with the following:**

SECTION \_\_. 94.64(4)(a)1. and 4. of the statutes are amended to read:

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

(a)4. A groundwater fee of 10 cents per ton, with a minimum fee of \$1. The department shall deposit groundwater fees collected under this subdivision to the environmental fund for environmental management, except as provided in s. 25.46(2).

**5. Insert the following before SECTION 6:**

SECTION \_\_. 94.65(6)(a)4. of the statutes is amended to read:

94.65(6)(a)4. Annually, by March 31, pay to the department a groundwater fee of 10 cents for each ton of soil or plant additive distributed, as described in the tonnage report filed under subd. 1. The minimum groundwater fee is \$1 for 10 tons or less. All groundwater fees shall be credited to the environmental fund for environmental management, except as provided in s. 25.46(2).

**6. Replace SECTION 11 with the following:**

SECTION \_\_. 94.681(7) is repealed and recreated to read:

94.681(7) USE OF FEES AND SURCHARGES. The department shall deposit all license fees and surcharges collected under subs. (2) to (6) in the agrichemical management fund, except that:

(a) The department shall deposit the following amounts in the environmental fund for environmental management, except as provided in s. 25.46(2):

1. \$94 for each pesticide product for which an applicant pays a license fee under sub. (2), (5) or (6)(a)3.

2. The cleanup surcharges collected under subs. (3m) and (6)(a)5.

3. The well compensation fees collected under sub. (4).

(b) The department shall deposit the cleanup surcharges collected under subs. (3) and (6)(a)4. in the agricultural chemical cleanup fund.

**7. Replace SECTIONS 14 to 15 with the following:**

SECTION \_\_. 94.72(6)(a)1. of the statutes is repealed.

**8. Insert the following after SECTION 18:**

SECTION \_\_. 299.41 of the statutes is renumbered 93.55(2g) and amended to read:

93.55(2g) HOUSEHOLD HAZARDOUS WASTE COLLECTION GRANTS. The department shall ~~establish and~~ administer a grant program to assist municipalities and regional planning commissions in creating and operating local programs for the collection and disposal of household hazardous waste. Grants shall be paid from the appropriation under s. 20.115(7)(vm). At the end of any grant year, the department may use any unexpended appropriation under s. 20.115(7)(vm) to reimburse that year's grant recipients for collection and disposal costs under this subsection that exceeded their grant awards for that year.

**9. Replace SECTION 20 with the following:**

**SECTION \_\_. Effective date.**

(1) AGRICULTURAL CHEMICAL CLEANUP PROGRAM REIMBURSEMENT. The treatment of section 94.73(6)(b) and (c)(intro) of the statutes and SECTION xx (1) take effect on January 1, 2004 *[Drafter Note: This date change is the only change to this subsection.]*

(2) AMOUNT DEPOSITED IN ENVIRONMENTAL FUND. The treatment of sections 25.46(2) to (4)(s), 94.64(4)(a)4., 94.65(4)(a)4. and 94.681(7) of the statutes takes effect on July 1, 2003.

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

## 2001 ASSEMBLY BILL 800

February 12, 2002 - Introduced by Representatives OTT, OLSEN, HINES, PETROWSKI, VRAKAS, SYKORA, GUNDERSON and MILLER, cosponsored by Senators HANSEN and SCHULTZ. Referred to Committee on Agriculture.

1 AN ACT *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.

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### *Analysis by the Legislative Reference Bureau*

~~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 fertilizer in this state to obtain an annual license from DATCP. A person who is~~

**ASSEMBLY BILL 800**

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 specify a surcharge of 38 cents per ton. This bill increases the maximum agricultural chemical cleanup surcharge by 50 cents per ton.

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.

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 specified maximum. This bill reduces the reimbursement rate under the agricultural chemical cleanup program from 80% to 75%.

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 an applicant for a pesticide manufacturer or labeler license are based on sales during the 12 month period that ends on September 30 of the license year. When the person applies for a license, the person pays the fees and surcharges based on estimated 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.

Under current law, pesticide manufacturer or labeler license fees 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 pesticide for which a licensee pays a fee is deposited into the environmental fund.

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 also requires DATCP to adjust the surcharge amounts as necessary to

## ASSEMBLY BILL 800

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 reduces the maximum balance to \$3,000,000.

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

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*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:~~



## ASSEMBLY BILL 800

1 ~~94.64 (4)(a) 5. An agricultural chemical cleanup surcharge of 38 88 cents per~~  
2 ~~ton on all fertilizer that the person sells or distributes in this state after June 30,~~  
3 ~~1999, unless the department establishes a lower surcharge under s. 94.73 (15).~~

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

5 94.681 (1) (cm) "Payment period" means the 12 months ending on September  
6 30 of the calendar year for which a license is sought under s. 94.68.

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

8 94.681 (2) ANNUAL LICENSE FEE. An applicant for a license under s. 94.68 shall  
9 pay an annual license fee for each pesticide product that the applicant sells or  
10 distributes for use in this state. The amount of the fee is based on sales of pesticide  
11 products during the payment period. An applicant shall pay an estimated fee before  
12 the start of each license year as provided in sub. (3s) (a) and shall make a fee  
13 adjustment payment before the end of the license year if required under sub. (3s) (b).  
14 Except as provided in sub. (5) or (6), the fee for each pesticide product is as follows:

15 (a) For each household 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, \$265.

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, \$750.

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

22 (b) For each industrial pesticide product:

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

## ASSEMBLY BILL 800

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, \$860.

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

5           (c) For each nonhousehold pesticide product:

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

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

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

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

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

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

## ASSEMBLY BILL 800

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

3 (c) If the applicant sold sells at least \$75,000 of that product during the  
4 ~~preceeding year~~ payment period for use in this state, an amount equal to 1.1% of gross  
5 revenues from sales of the product during the ~~preceeding year~~ payment period for use  
6 in this state.

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

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

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

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

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

## ASSEMBLY BILL 800

1 revenues from sales of the product during the ~~preceding year~~ payment period for use  
2 in this state.

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

4 94.681 (3s) PAYMENT OF FEES AND SURCHARGES. (a) Before the start of a license  
5 year, an applicant shall estimate the gross revenues that the applicant will receive  
6 from sales of each pesticide product during the payment period that ends during the  
7 year for which a license is sought under s. 94.81 and shall pay the amounts under  
8 subs. (2), (3), and (3m) based on that estimate. At least 15 days before beginning to  
9 sell a new pesticide product in this state, a licensee shall estimate the gross revenues  
10 that the applicant will receive from sales of that pesticide product during the  
11 payment period in which the licensee begins to sell the pesticide product and shall  
12 pay the amounts under subs. (2), (3), and (3m) based on that estimate.

13 (b) Before the end of a license year, a licensee shall report to the department  
14 the gross revenues that the licensee received from sales of each pesticide product  
15 during the payment period that ended during the license year, as required under s.  
16 94.68 (2) (a) 2., and shall reconcile the estimated payment made under par. (a) with  
17 the amounts actually due under subs. (2), (3), and (3m) as follows:

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

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

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

## Tradewell, Becky

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**From:** Walker, William - DOA  
**Sent:** Thursday, November 07, 2002 3:49 PM  
**To:** Tradewell, Becky  
**Cc:** Grinde, Kirsten  
**Subject:** Addition to an Existing DATCP Budget Drafting Request

Becky, I have three fee changes to add to the budget drafting request relating to the ag chem management and cleanup funds.

These requests reflect DATCP's shadow budget. They are similar to recent Ag Chem fee proposals. The priority is low but hopefully won't take much time anyway.

(Kirsten, when I was reviewing my fee tracker, I saw that these had not yet been submitted.)

- ✓ 1. Increase the feed tonnage fee deposited into the ag chem management fund from \$0.25 / ton to \$0.30 / ton for all products sold after January 1, 2004 (94.72(6)).
- ✓ 2. Increase the fertilizer tonnage fee deposited into the ag chem management fund from \$0.30 / ton to \$0.45 / ton for all products sold after July 1, 2003 (94.64(4)).
- ✓ 3. Raise the maximum fertilizer tonnage fee deposited into the ag chem cleanup fund from \$0.38 / ton to \$0.88 / ton. (Actual fee is set by rule subject to the maximum.) (94.73(6).)

Bill Walker  
State Budget Office  
266-7973