

☞ **03hr_AC-Ag_ab0380_pt01**



(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2003-04

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on Agriculture...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (August 2012)

Assembly

Record of Committee Proceedings

Committee on Agriculture

Assembly Bill 380

Relating to: the applicability of rules concerning the storage of bulk fertilizer and bulk pesticides.

By Representatives Olsen, Freese, Gronemus, Hines, M. Lehman, Ott, Plouff, Seratti, Sinicki, Townsend, Van Roy and Vrakas; cosponsored by Senators Hansen and Robson.

June 05, 2003

Referred to Committee on Agriculture.

July 24, 2003

PUBLIC HEARING HELD

Present: (12) Representatives Ott, Ainsworth, Petrowski, Kestell, Suder, Hines, Loeffelholz, Towns, Gronemus, Balow, Vruwink and Hebl.

Absent: (3) Representatives M. Williams, Plouff and Steinbrink.

Appearances For

- Representative Luther Olson
- Nick Neher, DATCP, Madison
- Ned Zuelsdorf, DATCP
- Amy Winters, Wisconsin Fertilizer & Chemical Assn, Wisconsin Agribusiness Council, Crop Life America, Madison
- Vince Michalski, Agriliance LLC
- Dan Hartung, Hartung Brothers, Inc.
- Denise Knudsen, Monsanto, Verona
- Kent Syth, WFCA Board, Oregon
- David Flakne, Syngenta Crop Protection, Madison
- Jim Shelton, Landmark, Juda

Appearances Against

- None.

Appearances for Information Only

- None.

Registrations For

- Tim Bender, WFCA, Milton
- Eric Clark, WFCA, Beaver Dam
- Larry Fiene, Agriliance

- John Manske, WI Federation of Cooperatives, Madison
- Ron Statz, NFO, Prairie du Sac
- Paul Zimmerman, WI Farm Bureau Federation, Madison

Registrations Against

- None.

October 30, 2003

EXECUTIVE SESSION HELD

Present: (14) Representatives Ott, M. Williams, Petrowski, Kestell, Suder, Hines, Loeffelholz, Towns, Gronemus, Plouff, Balow, Vruwink, Hebl and Molepske.

Absent: (1) Representative Ainsworth.

Moved by Representative Ott, seconded by Representative M. Williams that **Assembly Amendment 3** be recommended for introduction.

Ayes: (14) Representatives Ott, M. Williams, Petrowski, Kestell, Suder, Hines, Loeffelholz, Towns, Gronemus, Plouff, Balow, Vruwink, Hebl and Molepske.

Noes: (0) None.

Absent: (1) Representative Ainsworth.

**INTRODUCTION OF ASSEMBLY AMENDMENT 3
RECOMMENDED, Ayes 14, Noes 0**

Moved by Representative Gronemus, seconded by Representative Petrowski that **Assembly Amendment 3** be recommended for adoption.

Ayes: (14) Representatives Ott, M. Williams, Petrowski, Kestell, Suder, Hines, Loeffelholz, Towns, Gronemus, Plouff, Balow, Vruwink, Hebl and Molepske.

Noes: (0) None.

Absent: (1) Representative Ainsworth.

**ASSEMBLY AMENDMENT 3 ADOPTION RECOMMENDED,
Ayes 14, Noes 0**

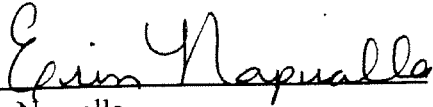
Moved by Representative Gronemus, seconded by Representative Kestell that **Assembly Bill 380** be recommended for passage as amended.

Ayes: (14) Representatives Ott, M. Williams, Petrowski,
Kestell, Suder, Hines, Loeffelholz, Towns,
Gronemus, Plouff, Balow, Vruwink, Hebl
and Molepske.

Noes: (0) None.

Absent: (1) Representative Ainsworth.

PASSAGE AS AMENDED RECOMMENDED, Ayes 14, Noes 0



Erin Napralla
Committee Clerk

Vote Record Committee on Agriculture

Date: 10-30-03

Moved by: Gronemus Seconded by: Kestell

AB 380 SB _____ Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

A/S Amdt _____
 A/S Amdt _____ to A/S Amdt _____
 A/S Sub Amdt _____
 A/S Amdt _____ to A/S Sub Amdt _____
 A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:
 Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Representative Alvin Ott, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Mary Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative John Ainsworth	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Representative Jerry Petrowski	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Steve Kestell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Scott Suder	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative J.A. Hines	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Gabe Loeffelholz	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Debra Towns	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Barbara Gronemus	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Joe Plouff	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Larry Balow	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Amy Sue Vruwink	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Tom Hebl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Louis Molepske	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>14</u>	<u>-</u>	<u>1</u>	<u>-</u>

Motion Carried Motion Failed

Vote Record Committee on Agriculture

Date: 10-30-03

Moved by: Gronemus

Seconded by: Petrowski

AB 380 SB _____ Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

A/S Amdt _____ all (LAA 3)
 A/S Amdt _____ to A/S Amdt _____
 A/S Sub Amdt _____
 A/S Amdt _____ to A/S Sub Amdt _____
 A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:
 Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

Committee Member	Aye	No	Absent	Not Voting
Representative Alvin Ott, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Mary Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative John Ainsworth	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Representative Jerry Petrowski	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Steve Kestell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Scott Suder	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative J.A. Hines	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Gabe Loeffelholz	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Debra Towns	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Barbara Gronemus	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Joe Plouff	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Larry Balow	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Amy Sue Vruwink	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Tom Hebl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Louis Molepske	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>14</u>	<u>-</u>	<u>1</u>	<u>-</u>

Motion Carried Motion Failed

Vote Record Committee on Agriculture

Date: 10-30-03

Moved by: Ott

Seconded by: Williams

AB 380 SB _____ Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

A/S Amdt a 1611 (AA3)

A/S Amdt _____ to A/S Amdt _____

A/S Sub Amdt _____

A/S Amdt _____ to A/S Sub Amdt _____

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

- Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

Committee Member	Aye	No	Absent	Not Voting
Representative Alvin Ott, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Mary Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative John Ainsworth	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Representative Jerry Petrowski	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Steve Kestell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Scott Suder	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative J.A. Hines	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Gabe Loeffelholz	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Debra Towns	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Barbara Gronemus	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Joe Plouff	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Larry Balow	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Amy Sue Vruwink	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Tom Hebl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Louis Molepske	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>14</u>	<u>-</u>	<u>1</u>	<u>-</u>

Motion Carried

Motion Failed



James (Jim) Shelton
General Manager
Landmark Agronomy Services Cooperative
Juda, WI 53550



July 23, 2003

Assembly Committee on Agriculture
Public Hearing on Assembly Bill 380
July 24, 2003

Chairman Ott and Members of the Committee,

Thank you for this opportunity to testify on Assembly Bill 380, pertaining to the Bulk Storage of Pesticides and Fertilizer.

My name is James (Jim) Shelton and I am the General Manager of Landmark Agronomy Service Cooperative.

Landmark operates 10 Ag Retail operations in the Wisconsin and Northern Illinois area, and our plants currently store bulk pesticides and fertilizer.

I have been involved in Ag Retail and the handling of bulk fertilizer since 1974, and bulk pesticides since the early 1980's. I have been in plant management operations since 1980 as well.

In 1988 Ag Retail dealers found it necessary to comply with legislation passed regarding the handling and storage of bulk fertilizer and pesticides. This was a huge undertaking for the Ag Retail businesses in Wisconsin, which ended operations at many plants throughout the state.

However, while it was a major undertaking and expense for Ag Retailers, it was the right thing to do. Today, Ag Retailers should be proud of their improved record with environmental protection. Vast improvements were made in 1988, and they continue to be made. Without the legislation that forced dealers to protect the environment, many more problems would exist today.

Now it is time to make the next logical step with Assembly Bill 380 on Bulk Storage of Pesticides and Fertilizer. For the last 15 years, as I drive around the countryside of Wisconsin, I have seen hundreds of farm tanks sitting at farm sites, unprotected. These tanks are without containment, without impervious load pads to conduct in load and out load operations on, and many are filled and never looked at again until using them the following spring.

Many of these same tanks are of questionable integrity, unpainted, rusty, and have sub-standard plumbing with no protection from vandalism.

The State of Illinois enacted rules for bulk storage of fertilizer and pesticide for Ag Retailers in the early 1990's. They already have rules in place that will affect farm storage, which starts now and continues through the next 3 years for final completion. While behind Wisconsin for Ag Retailer bulk storage, they are way ahead of Wisconsin on farm bulk storage.

One also needs to consider what is, and what will continue to happen to farm size in the State of Wisconsin. As much as we hate to admit it, the actual numbers of active farmers (those with a majority of their income derived from farming operations) are shrinking. While the number shrinks, the remaining farm operations continue to get larger and larger. The number of acres farmed is not changing significantly, except for urban sprawl. However the remaining farmers operate a larger and larger number of acres.

As farm operation sizes continues to grow, so will the need of bulk storage on the farm. While today a large farmer may have a couple of tanks on his farm, in the future the number of tanks needed, will grow even larger.

Now let's talk about where the nitrogen industry is going. The natural gas crisis in the US has put extreme pressure on the nitrogen industry. Natural gas has moved to new record levels and is predicted to move even higher through the upcoming winter months. There is no short-term fix for the natural gas problem with increased dependence on it for electrical power generation, which will keep this product under pressure.

Nitrogen is made from natural gas and air. The huge increase in natural gas pricing has moved nitrogen to new record high price levels. The most economical natural gas for manufacturing nitrogen is available during low heat demand during the summer months. As gas moves from the \$5.00-\$6.00 level during the summer to \$10.00-\$12.00 during the winter, nitrogen pricing nearly doubles as well.

W2931 Walnut Street
608-934-5215 Office
PO Box 26
608-558-0990 Mobile
E Mail-jshelton@landmark.coop

July 23, 2003

For farmers, the correct time to fill is now, and let the product sit in storage until spring. This pricing pressure will increase the needs for on-farm storage, and again brings more liability to the soil and water resources of Wisconsin.

As farm size becomes larger, in some cases, on-farm storage exceeds that of many Ag Retailers today. These Ag Retailers have had containment for 15 years. Currently there are on-farm storage tank farms that exceed that of Landmark locations.

The following is a number of photos of typical on-farm storage tanks with comments on the challenges they present to the State of Wisconsin soils and water resources.



Current Checklist For On-Farm Storage

- ✓ No Secondary Containment- OK
- ✓ Rusty unpainted tank- OK
- ✓ No Security- OK
- ✓ Loading over unpaved surface- OK
- ✓ Cheap \$20, 2" Poly ball valve- OK
- ✓ No lock on valve- OK
- ✓ No plug in cam lock- OK
- ✓ Burned vegetation- OK
- ✓ Tank directly adjacent to road- OK



From the above photos you can see that placing rusty tanks within secondary containment is just part of this issue.

From the looks of the burnt and dead foliage, soil contamination exists from loading and unloading of bulk fertilizer and or pesticides. This operation should take place over an impervious pad that will prevent runoff and capture spills.

Security since 9/11 has been on everyone's mind. How does this tank promote improved security?

The tanks to the right are again typical photos of on-farm bulk storage tanks currently out in the country unprotected.

Many of these storage tanks are located on the farm, sometimes as much as 20 miles away from the main farming operation. Catching a leak before it becomes a serious problem would be very unlikely.

As you can see, the in loading and out loading that occurs at this site has likely caused soil contamination as well. This reinforces the use of impervious load pads.



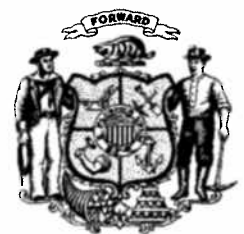
I appreciate the time you have given me for testimony in support of Assembly Bill 380. It is the next logical step to further protecting the environment in Wisconsin.

Respectfully submitted,

James (Jim) Shelton
General Manager
Landmark Agronomy Services



WISCONSIN STATE LEGISLATURE





July 24, 2003

Mr. Chairperson / Members of the Committee

My name is Dan Hartung. I am President of Hartung Brothers, Inc. Hartung Brothers; Inc. is a Wisconsin based Agri-Business. Today I am representing our Wholesale Fertilizer Division. It operates Liquid Fertilizer terminals in Arena (Iowa Co.), W. Almond (Portage Co.), Oshkosh (Winnebago Co.), as well as Winona MN.

I am here today in support of AB 380.

Many of our Dealers we service have customers who have on farm storage that is currently exempt from the containment rules in effect for Dealers. Many of these tanks are old and in poor repair and are disasters waiting to happen. As farms continue to get larger this will only become a bigger problem.

If the goals of the current Containment laws are to protect the waters of the State then AB 380 will only help give the Department more tools to work with.

Thank you for your consideration.

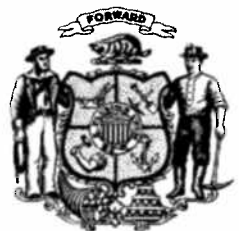
Sincerely

A handwritten signature in black ink that reads "Dan Hartung". The signature is written in a cursive, flowing style.

Dan Hartung
President



WISCONSIN STATE LEGISLATURE





Luther S. Olsen

STATE REPRESENTATIVE • 41ST ASSEMBLY DISTRICT
P.O. Box 8953, Madison, WI 53708-8953

TESTIMONY BY STATE REPRESENTATIVE LUTHER OLSEN REGARDING ASSEMBLY BILL 380

Assembly Agriculture Committee

July 24, 2003

Good morning, Chairman Ott and committee members. Thank you for allowing me to testify on Assembly Bill 380. I introduced this bill for your consideration because more and more people are storing large amounts of bulk agrichemicals. This bill updates the current statutes to protect Wisconsin's groundwater from improperly stored bulk fertilizers and pesticides. It makes the law applicable to everyone who has bulk storage. Currently, only manufacturers and distributors of these chemicals are covered under the law.

Current law requires the Department of Agriculture, Trade and Consumer Protection to create and enforce rules for the storage of bulk fertilizer and bulk pesticides to protect the waters of the state from contamination. Bulk fertilizer is fertilizer distributed in nonpackaged form. Bulk pesticides are liquid pesticides in containers larger than 55 gallons and solid pesticides in undivided quantities greater than 100 pounds. Under current law, the rules apply to any person who manufactures or sells bulk fertilizer or bulk pesticides. This bill provides that the rules for the storage of bulk fertilizer and bulk pesticides also apply to persons who store those substances for 45 days or more.

With that said, the issue, first and foremost, we are dealing with is safety. Part of being a farmer is also being an environmentalist, since the environment is the basis for the industry. According to the Wisconsin Agricultural Statistics Service, more than 1.5 million pounds of Atrazine and 1.1 million pounds of Acetochlor, commonly known as Harness or Supreme, were applied to the 3.65 million acres of corn planted in the state last year. Nearly two million pounds of other herbicides and insecticides were applied as well. On Wisconsin's 1.5 million acres of soybeans, more than a million more pounds of herbicides were applied, including 924,000 pounds of Roundup, the common name of Glyphosate. Hundreds of thousands of pounds of other herbicides, pesticides and fungicides are applied each year to Wisconsin's many other vegetable and crop fields.

There were a number of farm spills over the past five years that could have been at least partially contained if this bill was law. These spills, consisting mostly of fertilizer, range in size from a mere ten gallons to as much as 18,000 gallons spilled and potentially headed into the aquifers and groundwater of Wisconsin. Of course, there are other spills that may not have been properly noticed and recorded, so this problem is likely more acute than the numbers I have been referencing.



Luther S. Olsen

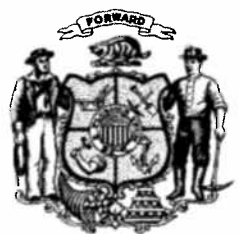
STATE REPRESENTATIVE • 41ST ASSEMBLY DISTRICT
P.O. Box 8953, Madison, WI 53708-8953

I have introduced an amendment to the bill. The 45-day amendment was drafted after an examination of this bill in relation to the laws of our neighboring states, which also have highly productive agricultural components to their economies. I believe you will find our amendment makes us no less safety-conscious than our neighbors. In a time when farmers are already facing financial constraints, the 45-day time frame allows them to do tank-to-field work without major restrictions. The amendment has been drafted in response to concerns from a number of various growers' groups and organizations.

In conclusion, I feel this is a bill that closes a loophole in the current laws, does not create an overwhelming burden that be justified in light of the safety issue, and protects our environment. I thank this committee for its time and consideration, and I welcome your questions on the bill at this time.



WISCONSIN STATE LEGISLATURE



ASSEMBLY COMMITTEE ON AGRICULTURE
July 24, 2003

Testimony of Amy Winters, Vice President of Government Relations for the Wisconsin Agribusiness Council and contract lobbyist for the Wisconsin Fertilizer and Chemical Association and CropLife America.

Chairman Ott, members of the committee, thank you for the opportunity to testify on Assembly Bill 380 pertaining to the bulk storage of pesticides and fertilizers.

The Wisconsin Fertilizer and Chemical Association surfaced this issue as a top priority this year due to concerns about how fertilizers and pesticides are being stored at non-commercial facilities.

Many changes have occurred in agriculture since the bulk storage laws were established, including a substantial increase in farm size. Increases in the number of producers installing or considering the addition of bulk-storage facilities on their farms has also increased due to increased efficiency and cost savings by purchasing and storing inputs in bulk quantities.

Assembly Bill 380 addresses the need for environmentally responsible and economically reasonable containment requirements to ensure that stored products are not released to the environment in the event of a storage container failure.

Although the cost of compliance is not insignificant, in the event of a tank or valve failure, the cost of containment can pay for itself, since producers are able to recover the fertilizer or pesticide, prevent environmental contamination and avoid the expensive clean-up costs associated with losing thousands of gallons of product.

Since 1994, the year the Agricultural Chemical Cleanup Program began, the Department of Agriculture has recorded 21 on farm spills totaling 109,430 gallons of fertilizer at a cleanup cost **far in excess** of \$239,090.00 the amount paid for only 9 of the 21 sites. Cleanup costs have ranged from \$6,000 to \$67,000 per occurrence (which does not include the loss of product), a far cry from the cost of containment measures.

Would Wisconsin be alone in requiring secondary containment at non-commercial sites? Not at all, all the states surrounding Wisconsin already have on farm bulk storage regulations or are currently developing them. Minnesota, Illinois, Iowa, Indiana, Ohio all have laws in place and Michigan is currently proposing new regulations.

There is never a good time to increase regulations on an already stressed industry, but we strongly believe that this is a needed, proactive approach that will save

money and resources in the long run. This is an issue that will not go away and is better to address it now, proactively, before we have greater costs due to spills.

This bill is not meant to limit choices or efficiencies for farmers, it is meant to protect the public and the environment. The entire fertilizer and chemical industry and all of agriculture **MUST BE PROACTIVE AND RESPONSIBLE** in how we handle our products, otherwise we subject ourselves to criticism and regulations that could truly inhibit our ability to judiciously store and apply agrichemicals.

This bill is a reflection of the crop protection industry's commitment to the safe storage and handling of its products and we ask for your support. Thank you.

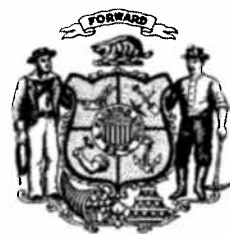
ON FARM SPILLS

DATE	LOCATION	SPILL AMOUNT	COST
01/31/94	Cronelli Kip/Green Giant Co-Beaver Dam	250 GAL	
09/29/94	William Mc Fall – Rewey	3,800 GAL	
05/03/96	Mathews Farms Inc.	2,000 GAL	
05/20/96	Joe Draxler	9,750 GAL	\$19,048
07/25/96	Allen Reise/Terra	16,000 GAL	
09/29/96	Runde Farms	8,500 GAL	\$9,051
01/22/97	Bay Lakes Coop – Rybicki	800 GAL	
03/14/97	Stoney Brook Farms	15,000 GAL	\$7,373
04/21/97	RJR Enterprise LLC – Adams	3,000 GAL	\$66,930
02/15/98	David Shaw	14,000 GAL	\$16,971
03/10/98	David Hahn	4,000 GAL	\$49,270
04/24/98	Cottage Grove Coop – Sharpee Farm	350 GAL	
05/18/98	Elko Solutions Inc. – Elkhorn	300 GAL	
05/20/98	Williams Lloyd	200 GAL	
06/01/98	Hartung Farms Cooperative – Arena	2,300 GAL	
06/02/99	Jerome Peterson – Baldwin	10 GAL	
05/04/00	Cottage Grove Coop - Waunakee	50 GAL	
04/30/01	Stephen Luther – Baraboo	10,000 GAL	\$44,447
06/04/01	Hyke Gary – New Auburn	30 GAL	
04/26/02	Allen Van de Hei - Seymour	1,100 GAL	\$6,000
12/02/02	Anfang Farms Inc. – Sullivan	18,000 GAL	\$20,000++*

* Still being submitted



WISCONSIN STATE LEGISLATURE



MONSANTO
imagine™



Dear Wisconsin Legislators:

I am writing in support of legislative bill AB 380 - regarding the expansion of containment regulations to extend to anyone keeping fertilizer or pesticide products for more than 45 days.

My employer, Monsanto, has been a longtime member and supporter of the agribusiness community in Wisconsin. As a Wisconsin Fertilizer and Chemical Association member, we have consistently supported the efforts of the organization to advance environmental stewardship among its members.

Our agribusiness retail partners in Wisconsin have used one of our products, Roundup, responsibly for over 25 years. We have gone to great lengths to educate and support our customers in proper handling and storage. Our retail partners have made a substantial investment in time, education, and, most importantly, dollars to ensure they comply with all containment regulations imposed by the state.

Three years ago, the patent for Roundup expired. Market demand for Roundup in the United States is increasing, and consequently, generic offshore materials have entered the market. We don't discourage this added competition, but of concern is the way these products are being stored and sold. To obtain a lower cost position, these products are being packaged in large (250 gallon or more) plastic containers and shipped throughout the state. These containers are sometimes inferior in quality to branded product manufacturers' time-tested shuttle equipment. We are concerned that these containers would not pass a drop-test - and would therefore be very susceptible to spills in transport and storage.

Our support for requiring secondary containment for all products is grounded in two key areas: (1) concern for a major spill that is not contained and poses an environmental threat, (2) support for fairness and a level playing field among all resellers of pesticides and fertilizer throughout the state. We feel all those that benefit from reselling fertilizer or pesticides should be held subject to the same standards and responsibilities of business conduct.

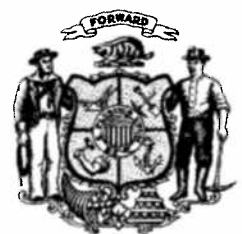
Thank you for your consideration of this issue.

Respectfully,

Denise Knudsen
Business Team Lead
Monsanto
865 Orchid Ct
Verona, WI 53593



WISCONSIN STATE LEGISLATURE





State of Wisconsin
Jim Doyle, Governor

Department of Agriculture, Trade and Consumer Protection
Rod Nilsestuen, Secretary

**Testimony in Support of AB 380
Secondary Containment Requirements for Farmers
Storing Bulk Pesticides and Fertilizer**

My name is Nicholas J. Neher. I am Administrator of the Agricultural Resource Management Division of the Department of Agriculture, Trade and Consumer Protection. I am providing testimony in support of Assembly Bill 380. The Department supports the Bill on the condition we are provided with the resources needed to effectively implement and enforce the regulatory provisions of the Bill, as we have identified in the attached fiscal impact statement that we prepared for the Bill (LRB 03-2597/1).

Our experience suggests that even small releases of pesticide and fertilizer products can lead to significant contamination issues, strongly supporting the need for passage of the Bill. Secondary containment of bulk pesticides greatly reduces the potential for releases that will impact both groundwater and surface waters resulting in human and livestock health and/or environmental concerns, as well as facilitating recovery and reuse of the pesticide. This can represent a considerable cost savings, given the high value of these products.

The same is true related to unintentional fertilizer releases. Since 1995 we have responded to 20 reported spills of bulk fertilizers at farmsteads. These spills resulted in the total release of almost 110,000 gallons. Secondary containment could have prevented the resulting environmental impacts, and allowed recovery and reuse. There are likely many more spills that go unreported each year and never get cleaned up.

Many of the large farms currently storing bulk fertilizers and pesticides store larger quantities of these products than the smaller agrichemical dealers that are required to have secondary containment. Many of the bulk fertilizer tanks on farms have been obtained from dealerships after the tank's life expectancy has been exceeded. This situation compounds the environmental concern by removing an old tank from within a containment structure and placing it on a farmstead without containment. Nineteen out of the 20 fertilizer spills that were reported were caused by faulty and old equipment.

We do support allowing an exemption for short term storage of these agrichemicals on farms. The current regulations for commercial distributors provide a 15 day exemption period for "mobile containers". This exemption period was based on minimizing risks while addressing practical farm issues, e.g. field work delays due to weather. Risks on farm are comparable or greater, as discussed above. We feel the same 15 day exemption is appropriate.

We would propose implementation and enforcement of these provisions using an approach comparable to the regulations currently in place for commercial dealers of bulk pesticides and fertilizers. The Department would develop these rules over the next year. As indicated in our fiscal impact statement, the costs for installing adequate containment structures on farms would

Nicholas J. Neher
Testimony in Support of 2003 AB 380
July 24, 2003

be in the range of \$1,000 to \$15,000 depending on the size of the structure needed. These costs are less than the cost of a clean up which have reached as much as \$200,000 for one spill, with six additional spills exceeding \$15,000 in clean-up alone, which does not include the value of the product lost.

Fiscal Estimate Narratives
DATCP 6/16/2003

LRB Number	03-2597/1	Introduction Number	AB-380	Estimate Type	Original
Subject					
Applicability of rules concerning storage of bulk fertilizer and pesticide					

Assumptions Used in Arriving at Fiscal Estimate

The following assumptions were used in determining the fiscal implications to the department:

The change in statutes would apply to an estimated 1,000 operations that are currently not required to comply with the existing statute. This information is based on a survey of industry we conducted indicating that approximately 700 farmers are currently storing bulk fertilizers in fixed tanks, 800 farmers are storing bulk fertilizer in mobile containers for more than 10 days, 800 farmers are storing bulk fertilizer in mobile containers for less than 10 days and 1,300 farmers are storing bulk pesticides. We are assuming that we would modify our existing rules to only apply to those farmers that are storing bulk products for more than 10 days. We are also assuming that the same farmers that are storing bulk fertilizers are the same ones storing bulk pesticides. Further, we assumed that if this statute went into effect, the estimated cost to comply with the regulations (\$1,000 - \$15,000 based upon the size of the structure needed), would result in one third of the remaining 1,500 farmers choosing to no longer store bulk fertilizer or pesticides to avoid the regulations.

In calculating the required staff time necessary, we assumed that we would inspect and regulate these operations similar to how we regulate and inspect bulk agricultural dealers. Each farm containment structure would be inspected every five years. Currently, we inspect each dealership every three years to ensure compliance and to verify compliance has been achieved through bulk follow up activities, where necessary.

Long-Range Fiscal Implications

The expected long-range fiscal implications are two additional staff to address the changes resulting from the proposed statutory change. One additional field person (Environmental Enforcement Specialist) and one additional bulk storage specialist (Environmental Analysis and Review Specialist) in the Madison office. The following time projections are provided as the basis in determining the additional staff requirement:

Year 1 - Time for developing rules: 400 hours

Year 1 - Time to develop outreach materials and conduct question and answer (training) sessions: 500 hours

Annually - Conducting compliance assistance to farmers through out Wisconsin: 500 hours

Annually - Conducting on-site inspections: 1600 hours each year(based upon 1000 farms X 8 hours per inspection divided by 5 years)

Annually - Tracking, reviewing and following up on inspections: 1000 hours each year(based upon 1000 farms X 5 hours per inspection review and follow up contacts divided by 5 years)

Annually - Compliance actions resulting from inspections: 600 hours (based upon 60 hours per each compliance action at 10 actions per year)

Annually - Continued outreach, compliance assistance and training: 600 hours

Fiscal Estimate Worksheet - 2003 Session

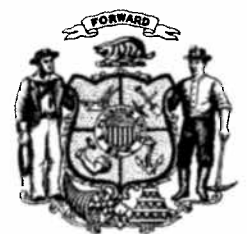
Detailed Estimate of Annual Fiscal Effect

Original
 Updated
 Corrected
 Supplemental

LRB Number 03-2597/1		Introduction Number AB-380	
Subject			
Applicability of rules concerning storage of bulk fertilizer and pesticide			
I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):			
II. Annualized Costs:		Annualized Fiscal Impact on funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations - Salaries and Fringes		\$87,300	
(FTE Position Changes)		(2.0 FTE)	
State Operations - Other Costs		33,400	
Local Assistance			
Aids to Individuals or Organizations			
TOTAL State Costs by Category		\$120,700	\$
B. State Costs by Source of Funds			
GPR			
FED			
PRO/PRS			
SEG/SEG-S		120,700	
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, ets.)			
		Increased Rev	Decreased Rev
GPR Taxes		\$	\$
GPR Earned			
FED			
PRO/PRS			
SEG/SEG-S			
TOTAL State Revenues		\$	\$
NET ANNUALIZED FISCAL IMPACT			
		State	Local
NET CHANGE IN COSTS		\$120,700	\$
NET CHANGE IN REVENUE		\$	\$
Agency/Prepared By		Authorized Signature	Date
DATCP/ Duane Klein (608) 224-4519		Barb Knapp (608) 224-4746	6/16/2003



WISCONSIN STATE LEGISLATURE



T-16-03

From Dwight Ruff CCA
Arcadia Coop
Arcadia WI.

To: AMY Winters WFCA

I am writing in regard to the bulk storage bill (AB 330) Our Coop strongly supports the passage of this legislation.

In our trade area, we are aware of at least five locations storing 3000 gallon of liquid fertilizer or more than 150 gallons of bulk pesticide with no containment measures in place. Being that we are located in Western Wisconsin, we have many hills and valleys in our geography. Most valleys have flowing streams that empty into larger watersheds. A spill of fertilizer or chemicals would seriously effect these watersheds.

Another point to consider is that if a spill were to occur, the facilities that maintain containments would end up helping to provide clean-up monies thru the FCP tax. Someone that is not a good steward of fertilizer or chemicals should be held totally liable for their shoddy practices

Thanks

M, W, F 608-323-2144

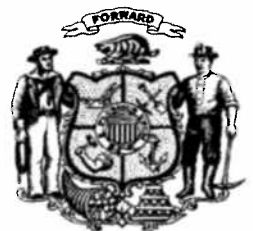
T, R 715-964-2411

Dwight Ruff

Call w/ any follow-up questions. Arcadia Coop



WISCONSIN STATE LEGISLATURE



Assembly Republican Majority

Bill Summary

AB 380: On-farm Storage of Bulk Fertilizer and Pesticide

Relating to: the applicability of rules concerning the storage of bulk fertilizer and bulk pesticides.

By Representatives Olsen, Freese, Gronemus, Hines, M. Lehman, Ott, Plouff, Seratti, Sinicki, Townsend, Van Roy and Vrakas, cosponsored by Senators Hansen and Robson.

Date: November 5, 2003

BACKGROUND

Under current law, the Department of Agriculture, Trade and Consumer Protection (DATCP) is required to create and enforce rules, which include the use of secondary containment and other safety measures, for the storage of bulk fertilizers and pesticides to protect the waters of the state from contamination. Currently, DATCP rules apply only to storage by any person who manufactures or sells these products.

On-farm bulk storage, however, has grown considerably in recent years due to increased efficiency and cost savings associated with storing fertilizers and pesticides in bulk quantities. Some agricultural producers store these produces in containers such as old petroleum storage tanks, which are no longer sound and have a high risk of leaking. Since 1994, DATCP has recorded 21 on farm spills totaling 109,430 gallons. Cleanup costs have ranged from \$6,000 to \$67,000 per occurrence, not including the cost due to loss of product.

SUMMARY OF AB 380 (AS AMENDED BY COMMITTEE)

Assembly Bill 380 expands the current law pertaining to the storage of bulk quantities of pesticides and fertilizers to include those who store, but do not manufacture or sell, these commodities (i.e. agricultural producers). Those who utilize mini-bulk storage containers or containers for liquid fertilizer in pivot irrigation systems (capacity of 1,650 gallons or less) will be exempt from secondary containment requirement, but will have to comply with other storage requirements as established by rule.

AMENDMENTS

Assembly Amendment 3 to Assembly Bill 380 exempts mini-bulk storage containers and containers for liquid fertilizer with a capacity of 1,650 gallons or less, from any secondary containment requirements. [adopted 14-0-1 (Rep. Ainsworth was absent)].

FISCAL EFFECT

A fiscal estimate prepared by the Department of Agriculture, Trade and Consumer Protection indicates that approximately 1,000 additional farm operations would be impacted by this statute change. It is anticipated that each farm containment structure would be inspected every five years. The Department states that two additional staff at a cost of \$87,300 will be needed to administer the program. An additional \$33,400 in state operations costs is also anticipated.

PROS

1. Assembly Bill 380 is aimed at protecting Wisconsin's ground water from improperly stored bulk fertilizers and pesticides. Unfortunately, some agricultural producers currently use containers such as old petroleum storage tanks, which are no longer sound and have a high risk of leaking, to store these products on the farm.

2. In the event of a bulk fertilizer or pesticide spill, secondary containment can facilitate recovery and reuse of these products. This can represent a considerable cost savings given the high value of fertilizers and pesticides.
3. The proper storage required under this bill will help prevent environmental contamination and avoid the expensive clean-up cost associated with release of large amounts of bulk fertilizer and pesticides.

CONS

1. This is an additional regulation imposed on our farmers.
2. The cost of compliance can be significant, especially when secondary containment is required.
3. Some farmers may be dissuaded from reaping the cost saving benefits of storing bulk fertilizers and/or pesticides due to the additional regulations.

SUPPORTERS

Rep. Luther Olsen, author; Sen. Dave Hansen, lead co-sponsor; Nick Neher, DATCP; Ned Zuelsdorf, DATCP; Amy Winters, Wisconsin Fertilizer & Chemical Assn, Wisconsin Agribusiness Council & Crop Life America; Vince Michalski, Agriliance LLC; Dan Hartung, Hartung Brothers, Inc.; Denise Knudsen, Monsanto; Kent Syth, WFCA Board; David Flakne, Syngenta Crop Protection; Jim Shelton, Landmark; Tim Bender, WFCA; Eric Clark, WFCA; Larry Fiene, Agriliance John Manske, WI Federation of Cooperatives; Ron Statz, NFO; and Paul Zimmerman, WI Farm Bureau Federation.

OPPOSITION

No one registered or testified in opposition to Assembly Bill 380.

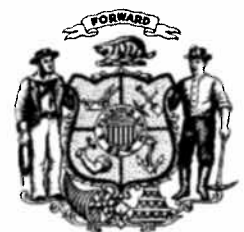
HISTORY

Assembly Bill 380 was introduced on June 5, 2003, and referred to the Assembly Committee on Agriculture. A public hearing was held on July 24, 2003. On October 31, 2003, the Committee voted 14-0-1 [Rep. Ainsworth was absent] to recommend passage of AB 380 as amended.

CONTACT: Erin Napralla, Office of Rep. Al Ott



WISCONSIN STATE LEGISLATURE



TB 380

7/24/83

Olser Bill basically "store" Adds to "store"

Amendment: "45 days or more"

- biggest spill was 18,000 gallons

~~It~~ - It will cost money to get people up to par.

Bisson - certain people determine what's appropriate.

Nick/Porter - Porter supports it but resources needed though to fund

Small releases can lead to big contamination
This storage greatly supports secondary containment better containment.

Cost per gallon of product is great - when spilled, the recovery is impossible so more lost

- Tanks sold by dealer are out of date

(19 of 20 spills were faulty equipment)

- will develop rules over next year

\$11-1,500 cost

less than clean up -


- DNR appropriate level compared to Porter level -

Rules spill it out Clean up done by Porter standards (not out of DNR)

AG 380 7/24/03

Rebecca
Spears
cont: Tank - pile what
kind of structure is used
to contain it.

- current law applies to
dealers (whole sale) ^{not} users
but not farmers

Containment areas
Q. Fixed by arsenic
by Bobby. Follow up? 

Army +
Vine
McChesler:
Tanks do + in person
condition - ^{the} storage essential.

Survey: 700 farms
store in fixed tanks
800 mobile containers
1300 farm storage
pesticides
(Some overlap)

thru. why would a dealer
give an unsafe tank?

AG wants to be responsible

lifespan for a tank

OTT
Amend?

life expectancy of a tank
tanker: small amount
Policy usually thinner steel

Vivian
OTT's

Is there any expectation
to inspect - no

Under bill of inspection
over 50 years

is expected. Pile
Annually inspection
tank -
over expect:

but natural disasters
occur too.

7/24/03 AB 380

tanks were out
+ there's secondary
market for the
but

if a containment
issue not an
equipment issue...

old tanks disasters
from getting bigger
more ~~to~~ critical to
have same rules...

primary - cement + steel
secondary containment
- steel as well

newly designed tanks
have double tanks

tanks are not licensed
only sealed

- Illegal to put tank
in the ground

- placement not a big
priority
better way to deal
with it is to have
good containment.

- Denise
(Monsanto) -
1 If spill happens
huge env. threat
2 Failure to sell, same standards

13 380 7/24/03

Kent Syth - Farmers have

grown
dealer regulates 1st
but farmer can
get products from
anywhere - not
always regulated...

then regulating farmers
would be good

Natural gas prices
affect their market
some money if buy
ahead -

bulk storage
needed

7/24/03 13 380

David Feltine
Syngenta:

1st Manufacturer that
requires
Secondary containment

Stewardship put in
place to prevent
accidents...

Industry (Crop Protection)
wants to do what's
best but not all
can

Manufacture
afford a have some
level of stewardship.

- do not want to come & ask
- "we want to be
regulated" -

but with changing
markets, need
ground rules

→ 1/24/83 ARB 330

- Requirement for 45 days
Short duration for
sprig application

- Current on boots is 15
days

Full fertilizes
sitting months or one
definitely need secondary
containment.

- if effort taken to
contain + spills ^{still} happen

Insurance may cover
some of the temporary
issues

-