

## 2007 DRAFTING REQUEST

### Bill

Received: **01/05/2007**

Received By: **btradewe**

Wanted: **Soon**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Miner**

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

Drafter: **btradewe**

May Contact:

Addl. Drafters:

Subject: **Agriculture - soil and water**

Extra Copies:

Submit via email: **NO**

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### Pre Topic:

DOA:.....Miner, BB0301 -

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### Topic:

Preventing pollution from agricultural chemicals

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### Instructions:

See Attached

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### 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>
/?							
/P1	btradewe 01/08/2007	jdye 01/09/2007	rschlue 01/09/2007	_____	sbasford 01/09/2007		
/1	btradewe 01/24/2007	jdye 01/24/2007	nmatzke 01/24/2007	_____	sbasford 01/24/2007		

FE Sent For:

<END>

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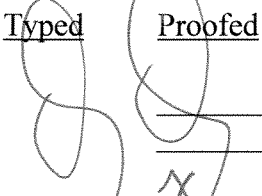
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/?	btradewe	1/1 1/9 jld					

FE Sent For:

  
<END>

## 2007-09 Budget Bill Statutory Language Drafting Request

- Topic: Preventing Pollution from Agrichemicals
- Tracking Code: BB0301
- SBO team: Environmental and Commercial Resources
- SBO analyst: Andrew Miner AM 1/04/07
  - Phone: 266-1103
  - Email: Andrew.Miner@Wisconsin.gov
- Agency acronym: DATCP
- Agency number: 115
- Priority (Low, Medium, High): High

Please note that the amount specified under the request has been reduced to \$250,000 annually, as indicated in the attached email.

**Department of Agriculture, Trade, and Consumer Protection****Preventing Pollution from Agrichemicals**  
2007- 2009 Biennial Budget Request (DIN #5775)**I. Issue**

The Legislature created the Agricultural Chemical Cleanup Program (ACCP) to help clean-up sites contaminated by agricultural chemicals. After noting that some previously remediated sites had been re-contaminated, the Department and industry worked together to create the environmental partners program, a voluntary initiative designed to help businesses prevent new soil and water contamination. Currently, however, individual businesses are not eligible for financial assistance to construct and install pollution prevention practices because state statute does not allow ACCP funds to be used for purposes other than reimbursement of site remediation costs. While the agrichemical industry strongly supports the concept of pollution prevention, businesses lack incentives to proactively install pollution prevention capital improvements and sites continue to be contaminated. Capital improvement grants for pollution prevention from the ACCP fund would increase the number of businesses using pollution prevention practices, protect the environment and public health, and reduce the long-term costs related to cleaning up contaminated sites.

**II. Request**

The Department requests:

- a statutory language change in ss. 94.73 (3m)(f) and (g) and ss. 20.115 (7)(wm) to allow a portion of ACCP funds, while maintaining a year-end cash balance of \$500,000, to be used for pollution prevention capital improvements; and
- a statutory language change in ss. 94.73 (6)(b) and (c) to increase the maximum ACCP award from a lifetime maximum of \$400,000 to a lifetime clean-up reimbursement maximum of \$400,000 and a combined reimbursement and pollution prevention maximum of \$500,000.
- Increased spending authority of \$1 million annually.

**III. Benefits**

This initiative is intended to allow the Department to use ACCP funds for grants to help businesses install agrichemical pollution prevention systems that will protect the environment and public health and reduce the need for environmental remediation in the future.

Industry: The industry benefits from the ability to receive grants, without a fee increase, to improve agrichemical handling practices and install pollution prevention practices.

The Public: The public benefits from prevention of agrichemical leaks and spills, a more cost-effective and environmentally sound approach than remediation.

#### **IV. Background**

In 1993, the Legislature authorized the ACCP to direct the clean-up of pesticide and fertilizer spills to minimize contamination of surface water, groundwater, and the surrounding environment. The program includes bulk storage and loading area containment regulations, provides reimbursement for a portion of eligible cleanup costs incurred by responsible parties and helps ensure that spill cleanups are effective and timely. While the Department has worked with industry to clean-up both long-term contamination and spill sites, investigations show that sites that had previously received ACCP reimbursement for remediation often are re-contaminated. To address the recontamination issues, the Department worked with industry representatives to create the environmental partners program. Businesses participating in the environmental partners program voluntarily install practices that will help avoid soil and water contamination from agrichemicals. While preventing pollution clearly is the best and most cost-effective option to protect the environment and public health, no ACCP financial assistance is available to businesses to help them install these practices.

Wisconsin ss. 94.73 and ATCP 35 currently prohibit the Department from using ACCP funds for purposes other than reimbursement of clean-up costs. In addition, statute also limits the maximum lifetime reimbursement from the ACCP fund to \$400,000. Fifteen sites have received the maximum reimbursement, and several others are very close. If the maximum financial award cap is not increased, many businesses would not be eligible for funding for pollution prevention practices.

#### **V. Analysis**

The ACCP has existed for 13 years, and has transitioned in that time from focusing on contaminated sites that require remediation, to writing bulk storage and containment regulations, to working with industry on a voluntary basis to prevent site contamination. While the program has evolved, the allowable uses of the ACCP fund have not.

It is critical that sufficient ACCP funds remain available to reimburse businesses for site clean-up expenses, the original and primary purpose of the fund. However, the Department and the agrichemical industry support ACCP funds being used for grants to help industry prevent site contamination through installation of pollution prevention practices. A narrow statutory change would protect the primary use of the ACCP fund for clean-up reimbursements, while permitting the Department to use a portion of any annual ACCP fund cash balance exceeding \$500,000 for pollution prevention capital improvements cost-sharing grants. These grants, when funds are available, would be awarded in March of each year to ensure all eligible reimbursement requests can first be met. The funds available for pollution prevention grants would fluctuate yearly, depending on the number of and size of the reimbursement requests.

Because a number of businesses have met or are near the \$400,000 lifetime maximum for reimbursements, the maximum financial assistance cap should be increased to \$500,000 to allow businesses access to both reimbursement and pollution prevention awards. While businesses would continue to be limited to a lifetime maximum of \$400,000 for clean-up reimbursements, this change would allow all businesses—including those who have already received their maximum allowable reimbursement-- to be eligible for pollution prevention

cost-sharing. Businesses would be eligible for pollution prevention cost-sharing grants as long as the combined total for reimbursements and cost-sharing does not exceed \$500,000.

No new positions are required to implement this request. The existing staff and ACCP council can administer and award the pollution prevention grants. Using the existing ACCP council will ensure that ACCP fund disbursement policy is handled consistently, that clean-up reimbursement requests remain the highest priority, and that the ACCP fund balance remains sufficient.

#### **VI. Impact of Denial**

If this request for statutory language changes is denied, businesses will continue to be required to pay the full cost for any pollution prevention capital improvements, which may reduce the number of businesses installing these practices. Long-term, denial of this request will mean additional environmental contamination and risks to human health and more cost to the state and industry to remediate the contamination.

**Miner, Andrew - DOA**

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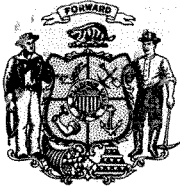
**From:** Knapp, Barb H DATCP [Barb.Knapp@datcp.state.wi.us]  
**Sent:** Friday, December 01, 2006 5:25 PM  
**To:** Miner, Andrew - DOA  
**Subject:** Pollution prevention grants  
**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Andrew - another change we made to items we've advanced earlier is to reduce the amount that we were proposing on ag chem prevention grants from \$1M/year to \$250,000/year. This is proposed in the ACCP fund.

B

Barb Knapp  
Budget Director  
Wisconsin Department of Agriculture, Trade & Consumer Protection  
2811 Agriculture Drive  
PO Box 8911  
Madison, WI 53708-8911  
(608) 224-4746  
Fax: (608) 224-5045





State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-1381/P1

RCT: ^:...

SOON (in 1/5)

Handwritten signature

DOA:.....Miner, BB0301 - Preventing pollution from agricultural chemicals  
FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

Handwritten note: Note

Handwritten note: don't gen

1 AN ACT ...; relating to: the budget.

*Analysis by the Legislative Reference Bureau*

**AGRICULTURE**

This bill authorizes DATCP to provide financial assistance to a business to pay a portion of the costs of capital improvements designed to prevent pollution from agricultural chemicals.

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

2 SECTION 1. 20.115<sup>✓</sup> (7) (wm) of the statutes is amended to read:  
3 20.115 (7) (wm) *Agricultural chemical cleanup reimbursement.* From the  
4 agricultural chemical cleanup fund, as a continuing appropriation, the amounts in  
5 the schedule for reimbursement of corrective action costs under s. 94.73 and for  
6 financial assistance to prevent pollution from agricultural chemicals under s. 94.74.

History: 1971 c. 125, 215; 1973 c. 90, 299, 333; 1975 c. 39 ss. 78m, 79, 79m, 79n, 732 (1); 1975 c. 224; 1975 c. 394 ss. 1, 27; 1977 c. 29 ss. 112 to 115v, 1650m (1), (4), 1654 (1); 1977 c. 87, 106, 181, 418; 1979 c. 34, 129, 221, 289, 335; 1981 c. 20, 66, 93, 283, 346, 357; 1983 a. 27, 132, 368; 1983 a. 410 ss. 5, 2202 (2); 1985 a. 7, 8, 29, 138, 153, 313; 1987 a. 27, 281, 354; 1987 a. 399 ss. 34 to 38, 38u; 1987 a. 403 s. 256; 1989 a. 31, 219, 227, 282, 284, 335, 336; 1991 a. 39, 269, 309, 315; 1993 a. 16, 166, 243, 437, 456, 497; 1995 a. 27, 42, 79, 460; 1997 a. 27, 192, 252, 264; 1999 a. 5, 9, 55, 185; 2001 a. 16, 38, 56, 103, 109; 2003 a. 33, 38, 133, 326, 327; 2005 a. 25.



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

LRB-1381/P1dn

RCT.....

date

JLd

Andrew Miner:

As with PECFA, the Agricultural Chemical Cleanup Program (ACCP) is designed to provide reimbursement for the costs of cleaning up contaminated sites. It does not work well to shoehorn financial assistance for pollution prevention into ACCP, so I have created a separate statute for this purpose.

Please let me know if you have any questions or want any changes in the draft.

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

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

LRB-1381/P1dn  
RCT:jld:rs

January 9, 2007

Andrew Miner:

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Please let me know if you have any questions or want any changes in the draft.

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

**Tradewell, Becky**

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**From:** Miner, Andrew - DOA  
**Sent:** Wednesday, January 24, 2007 10:06 AM  
**To:** Tradewell, Becky  
**Subject:** RE: change to draft: 1381

Becky,

The answer to your second question is "no" and the third question is "yes," because the \$500,000 refers to a lifetime maximum. Therefore, your suggested language of "Under this section, the department may not provide funding for capitol improvements at any site in an amount that exceeds \$500,000 less any amount received under s. 94.73 for the site" should work fine. Thanks,

Andrew

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**From:** Tradewell, Becky [mailto:Becky.Tradewell@legis.wisconsin.gov]  
**Sent:** Wednesday, January 24, 2007 9:22 AM  
**To:** Miner, Andrew - DOA  
**Subject:** RE: change to draft: 1381

Andrew,

There is a maximum of \$400,000 under s. 94.73 now, is there not? So do you want to increase the maximum payments for everyone under s. 94.73 (that is, I guess, do you want to increase the lifetime maximum under s. 94.73 to \$500,000, less any amount the site has gotten under s. 94.74)? And if a site has not gotten any money under s. 94.73, then you want it to be able to get \$500,000 under s. 94.74 (even though DATCP is not allowed to spend more than a total of \$250,000 per year for all sites under s. 94.74)?

If the answer to the second question is "no" and the answer to the third question is "yes," then should the draft say something like "Under this section, the department may not provide funding for capitol improvements at any site in an amount that exceeds \$500,000 less any amount received under s. 94.73 for the site."? If the answer to both questions is "yes," that may be a bit complex to draft and it means a rather significant policy change in s. 94.73.

I thought that the \$100,000 limit in the draft satisfied the intent in the initial instructions for the draft to allow a site to get funding under this new provision even if the site had already gotten all it could get under s. 94.73, but that the draft had done that in a little bit different way because the draft did not place these new payments in s. 94.74 as DATCP had contemplated.

Becky

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**From:** Miner, Andrew - DOA  
**Sent:** Tuesday, January 23, 2007 6:53 PM  
**To:** Tradewell, Becky  
**Subject:** change to draft: 1381

Hi Becky,

Please make the following change to draft 1381, preventing pollution from agricultural chemicals. Under 94.74 (2) take out the sentence that says "The department may not provide more than \$100,000 under this section for capital improvements at any site." The intent is that DATCP could spend a maximum combination of \$500,000 at one site under existing 94.73 and proposed 94.74. So could you insert a new section that says the amount spent under 94.73 and 94.74 at one site may not exceed \$500,000?

I'll call you tomorrow to discuss the PECFA drafts. Thanks,  
Andrew

01/24/2007



State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-1381/P1  
RCT:jld:rs

In 1/24

VMY

DOA:.....Miner, BB0301 - Preventing pollution from agricultural chemicals  
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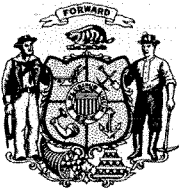
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7 SECTION 2. 94.74 ✓ of the statutes is created to read:





State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-1381/1  
RCTjld:nwn

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