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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2009-10

(session year)

Senate

(Assembly, Senate or Joint)

Committee on Environment...

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 - (**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) (September 2013)

DATE: February 11, 2009

TO: Honorable Senator Mark Miller
Wisconsin Senate Committee on the Environment

FROM: Richard C. Lathrop, Ph.D. Timothy Asplund
Research Limnologist Lake Ecologist
Bureau of Science Services Bureau of Watershed Management
Wisconsin Dept. Natural Resources WI DNR

SUBJECT: Comments on Wisconsin's proposed bill to restrict the sale of phosphorus in lawn fertilizers (AB 3/ SB 5)

The Department was asked to provide expert scientific judgment on the following questions and issues pertaining to the proposed state-wide ban on phosphorus (P) in lawn fertilizers. These answers were provided at the State Assembly Committee Hearing by Richard Lathrop and will be provided to the State Senate Hearing by Timothy Asplund—both are professional limnologists with extensive lake research and management experience on WI lakes. The questions were prepared for the Assembly hearing and should be relevant to your P-ban hearing.

1. *Can P in lawn fertilizers be distinguished from other sources of P (e.g., leaves) in runoff?*

Without a significantly detailed analysis of land use patterns in a watershed, it's very difficult to assign and quantify the diffuse sources of P in runoff. Research studies have attempted to quantify these sources of P in urban runoff for particular watersheds, with the information being transferable to other watersheds with similar land use types and other characteristics.

2. *What effect does P have on lakes and eutrophication?*

An extremely large number of peer-reviewed scientific studies since the early 1970's (and earlier) have identified P as the main cause of eutrophication in inland lakes. This is attributed to P being the primary growth-limiting nutrient controlling the amount of algae produced in lakes. Thus, when P is a limiting factor, the lake system will respond directly to changes in P loading. If P increases, then lake water quality should get worse as measured by an increase in summer blue-green algal blooms.

3. *Which watersheds would be most improved by reduced P [in lawn fertilizers]?*

Lakes with predominately urban land uses in their relatively large watersheds should be responsive to lawn fertilizer P reductions (e.g., Lake Wingra, Dane County). In addition, nutrient-poor (oligotrophic) lakes, especially in the northern forested regions of the state, could benefit greatly from restricting the application of P-based fertilizers on lake shore properties given other sources of P inputs are low (i.e., the reason the lakes are inherently nutrient-poor). However, lakes with large watersheds dominated by agricultural land uses (e.g., Lake Mendota, Dane County) would show less responsiveness to P lawn fertilizer reductions due to very large inputs from these agricultural sources.

4. *What results have been seen in other places where P in lawn fertilizers has already been banned?*

Lake responses attributable to Dane County's P lawn fertilizer ban are too early to document given the wide yearly variation in runoff in recent years (e.g., massive runoff events of August 2007 and June 2008). Significant P reductions in urban runoff resulting from Minnesota's statewide ban have been noted (e.g., <http://www.pca.state.mn.us/publications/stormwaterresearch-fertilizer.pdf>).

5. *What is correct and what is incorrect about the arguments raised by the Wisconsin Manufacturers and Commerce (WMC) and fertilizer industry representatives/lobbyists against the lawn fertilizer P ban?*

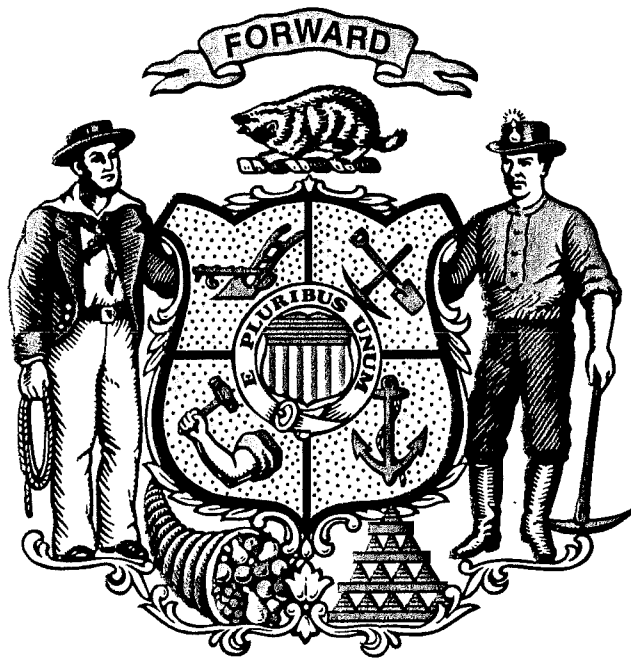
While these groups that oppose the proposed statewide ban appear to accept the scientific basis for the need to control P inputs to lakes for improving water quality or maintaining good water quality, they argue that studies funded by the fertilizer industry show little P reduction benefit from lawns. Part of the argument is that little runoff occurs from healthy lawns maintained by fertilizers. The other part of the argument is that other sources of runoff P (e.g., manure or soil erosion from ag lands) to lakes are orders of magnitude higher than lawn runoff. We have argued in a previous response to a question that there are certain lakes where restricting P in lawn fertilizers would improve water quality in those lakes – a large environmental benefit for Wisconsin's lakes.

The argument can also be made that for many urban settings there would be no harm for the lawn fertilizer P ban to be imposed. This derives from the fact that a very large percentage of our urban soils have excessive amounts of available P for growing grass. The current UW-Extension guideline for urban soils is that 20 ppm soil test P (Bray-1 test, mg P per kg of soil dry wt) has been designated as an "Excessive" threshold where further addition of P fertilizer is not needed to maintain lawn growth for established lawns. In the Dane County area, urban soil samples were found in two independent studies (Bennett 2003; unpubl. analysis of soil P data by zip code provided by Dane Co. Land and Water Resources Dept.) to be almost entirely above the threshold. In the Bennett (2003) study with soil samples collected randomly in Dane County urban areas, the average soil P was about 50 ppm. For the Dane Co. LWRD unpublished dataset for urban zip codes representing southwestern Madison in the Lake Mendota watershed, the average soil P value was 66 ppm. Thus, based on the UW-Extension guidelines as to what constitutes excessive soil P in a plant-available form, urban soils with such high soil P levels will not be harmed by not adding P lawn fertilizers. And we think most agronomists will agree that lawns need nitrogen to be green and lush during the growing season.

Finally, the arguments about less P coming off lush, P-fertilized lawns than coming off unfertilized lawns is potentially misleading in our professional judgment. First, the often cited "study" funded by the fertilizer industry has not been published in the peer-reviewed scientific literature; it was published in a trade magazine article. One problem with that study we believe is that no runoff test was done for lush lawns maintained by just nitrogen (N) fertilizers. Another disagreement we have with the study is that it didn't adequately look at the P loading potential throughout the full year. For example, while it is possible the excess P may be sequestered in lush turf grass during the growing season, when plants senesce at the end of the growing season and break down during the winter, P can be leached from these lawns and underlying soil, particularly in the soluble P form. Fertilized grass clippings also can contain higher concentrations of particulate P that can either be blown onto impervious surfaces, or die and release soluble P, that can increase the P in runoff to lakes compared to urban lawns where no P fertilizers have been used. The inherent problems in spreading fertilizer with P also leads to some fertilizer ending up on impervious surfaces subject to immediate runoff and transport to lakes.

While many of these issues could benefit from more detailed, impartial scientific study with results published in the peer-reviewed scientific literature, there appears to be no credible evidence that most lawns in Wisconsin are deficient in P where their lush growth would benefit from anything other than

N-based fertilizers. The proposed law does allow for P-based fertilizers to be applied if a test determines the soil to be deficient, or for starting new lawns where root growth needs to be stimulated. If in the future, sufficient soil testing indicates certain state regions need P-based fertilizers, then amendments to the statewide ban can be adopted.





**LEAGUE OF WOMEN VOTERS®
OF WISCONSIN, INC.**

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February 11, 2009

To: Members of the Senate Committee on Environment

Re: Support SB 5, the Ban on Phosphates in Lawn Fertilizer

The League of Women Voters of Wisconsin strongly supports SB 5, the Ban on Phosphates in Lawn Fertilizer. The League supported similar restrictions on phosphates in laundry detergents in the 1970's and early 1980's when Wisconsin and other Great Lakes states were leaders in controlling this source of nutrient pollution to surface waters. The impacts of these practical preventive measures were dramatic, esp. in Lake Erie.

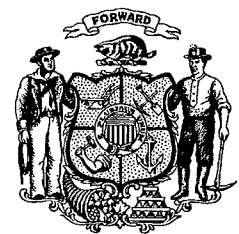
Unfortunately, pollution of our waters can also come from an array of human activities, including lawn and turf care. Most Wisconsin laws have several times more phosphorus than the level (20 parts per million) needed to keep them healthy. Phosphates build up in soils. Runoff and sedimentation carries it to surface waters. Nutrients belong on the plants, not in our water.

SB 5 will help in controlling the degradation – eutrophication - of our lakes and surface waters from over-fertilization of lawns and turf. Eutrophication is a process where water bodies receive excess nutrients (nitrogen and phosphorus) that stimulate excessive plant growth. Fish in these waters are robbed of oxygen, water clarity is diminished and habitat is smothered in stinky, sometimes even poisonous, algal scum. Such water quality degradation reduces use of lakes, harms lakefront property values and diminishes everyone's enjoyment of our water heritage.

Phosphate-free fertilizer is widely available at no increased cost. SB 5 allows consumers to apply phosphates in those circumstances where there is a demonstrated need for phosphates, such as establishing young plants and where a soil test shows a deficiency of nutrients. SB 5 allows retail outlets to advertise the availability of, but not display, fertilizers with phosphates.

SB 5 is modeled after the successful Dane County ordinance that took effect in 2005. Many local communities have taken actions to support adoption of a consistent statewide fertilizer standard in lieu of their adopting such ordinances one jurisdiction at a time. Minnesota has had a similar law in effect since 2005. Other states have a variety of lawn fertilizer bans including some targeting impaired watersheds.

The League of Women Voters urges you to approve SB 5 and recommend adoption by the full Senate.





WMC

WISCONSIN'S BUSINESS VOICE

TO: Senate Committee on Environment
FROM: Scott Manley, Environmental Policy Director
DATE: February 11, 2009
RE: Senate Bill 5 - Regulation of Fertilizer

Wisconsin Manufacturers & Commerce (WMC) appreciates the opportunity to provide input on Senate Bill 5, which would regulate the sale and use of fertilizer containing phosphorous. There are a number of implementation issues we would like to call to the Committee's attention, and respectfully request your consideration to amend the bill in order to simplify compliance and enforcement.

WMC is the state's largest business trade association, with over 4,000 members in the manufacturing, service, health care, retail, energy, banking and insurance sectors of our economy. WMC is dedicated to making Wisconsin the most competitive state in the nation to do business, and toward that end, we support consistent, cost-effective and market-driven regulatory approaches that are supported by sound science. With those principles in mind, we request your consideration of the following changes to Senate Bill 5.

(1) Remove the ban on selling fertilizer containing phosphorous, and focus the regulation on end-users. With limited exceptions, the bill would prohibit the sale, display and application of fertilizer containing phosphorous in Wisconsin. The regulatory approach taken in this legislation is problematic because it places retail businesses in the difficult and unfair position of having to determine if their customer intends to use the product lawfully. For example, a retailer would be prohibited from selling fertilizer containing phosphorus under the bill, unless the product is sold to a person for use in the first growing season, or to a person who has a soil test demonstrating the need for additional phosphorus.

It is unreasonable to expect retailers to serve as a finder of fact to determine, at the point of sale, whether their customer will use the product in accordance with the law. As a result, and because of the forfeitures in the bill, retailers may simply choose to stop selling an otherwise lawful product, resulting in diminished consumer choice. A much better approach would focus the regulation on the end user, and restrict the manner and circumstances under which users are allowed to apply fertilizer containing phosphorous.

(2) Remove the ban on displaying fertilizer containing phosphorous. WMC is also concerned that this legislation unjustifiably restricts commerce by prohibiting businesses from displaying a lawful product in their stores. As stated above, the bill would allow fertilizer containing phosphorous to be sold under certain circumstances, including for agricultural production, for soil determined to be deficient in phosphorous, and for application in the first growing season.

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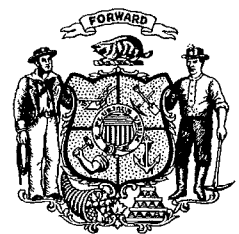
Despite these lawful uses, Senate Bill 5 would prohibit businesses from displaying the product within view of customers.

The bill's display prohibition is unwarranted, will severely undermine the ability of merchants to conduct vital in-store marketing, and will create logistical problems for businesses who simply cannot afford to sacrifice valuable storage space in order to hide their products from customers. If enacted, this restriction poses yet another reason why retailers may decide to stop offering a lawful product to customers who legitimately need it.

There are many products for which the legislature has placed restrictions on retail sale, including tobacco products, alcohol and lottery tickets. However, in none of these examples are retailers prohibited from displaying those products to their customers. Banning the display of fertilizer containing phosphorous is not necessary to achieve the intent of this legislation, and should be removed from the bill.

(3) Preempt Local Fertilizer Regulations. WMC believes that a uniform and statewide policy to regulate fertilizer is the best approach to address water quality impacts, and will lead to a higher degree of compliance. We therefore support adding language to the bill that would prohibit local governments from enacting ordinances to prohibit or otherwise regulate fertilizers. Replacing a confusing patchwork of overlapping and inconsistent fertilizer regulations enacted by local governments with a statewide policy will also simplify enforcement. This approach is similar to the policy established by the Legislature for regulating pesticides.

Thank you for your thoughtful consideration of these changes to Senate Bill 5. With these amendments, WMC would support passage of this legislation.



Wisconsin Wildlife Federation

Wisconsin Wildlife Federation Testimony in Support of Senate Bill 5—Lawn Fertilizer Ban

Chairman Miller and members of the Senate Committee. My name is George Meyer and I am representing the Wisconsin Wildlife Federation and its 161 hunting, fishing, trapping and forestry related affiliates. Thank you for the opportunity to testify here today in support of Senate Bill 5 restricting the uses of phosphorus in lawn fertilizer.

Phosphorus runoff into our lakes and streams leads to increased fertilization of our lakes, the growth of undesirable aquatic plants and the substantial degradation of Wisconsin's extremely valuable fish and wildlife habitat. Our members have seen the continued degradation of water quality and increased undesirable plant growth over the last forty years. We have strongly supported the many efforts of the legislature to reduce nonpoint pollution into our waterways including cost-sharing funds for farmers.

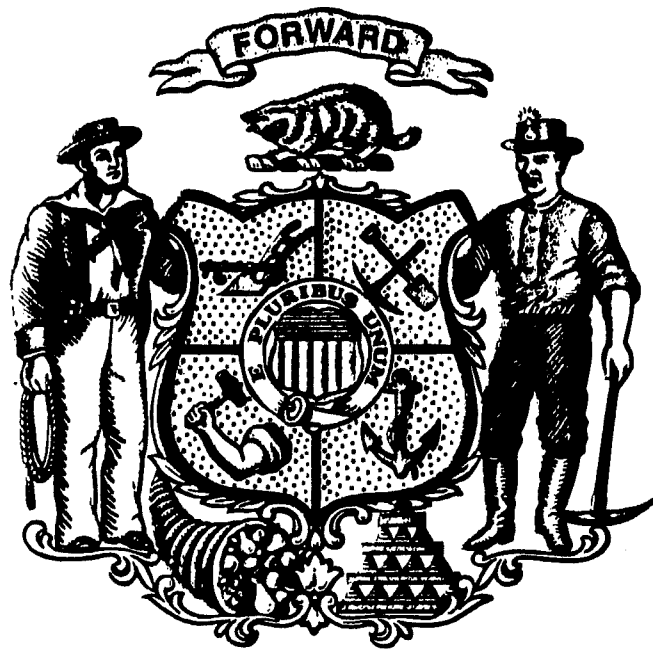
It is far easier to attack the problem of excessive phosphorus run-off from residential and commercial lawns. The great majority of lawns in this state already contain excessive levels of phosphorus and can well support lush lawns without the addition of more phosphorus in lawn fertilizer. Therefore it makes sense to restrict the sale of lawn fertilizer in the state for most applications of lawn use. This bill does permit the sale of lawn fertilizer with phosphorus for new lawn startups and lawns where it can be demonstrated that there is a phosphorus deficiency in the soil.

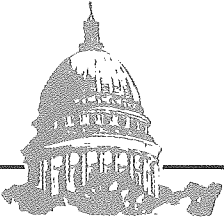
Dane County has already banned the display and sale of lawn fertilizer with phosphorus. with no apparent harm to homeowners and their lawns. This is common sense legislation which the Wisconsin Wildlife Federation strongly supports

Thank you again for the opportunity to testify here today.

Submitted by:
George Meyer
Executive Director

February 11, 2009





MARK MILLER

WISCONSIN STATE SENATOR

P.O. Box 7882 Madison, WI 53707-7882

Testimony before Senate Environment Committee

February 11, 2009

Senate Bill 5

I am pleased to have introduced Senate Bill 5, the bill to restrict phosphorus in fertilizers. I would like to thank Representative Black and Bies and Senator Cowles who have co-authored this bill.

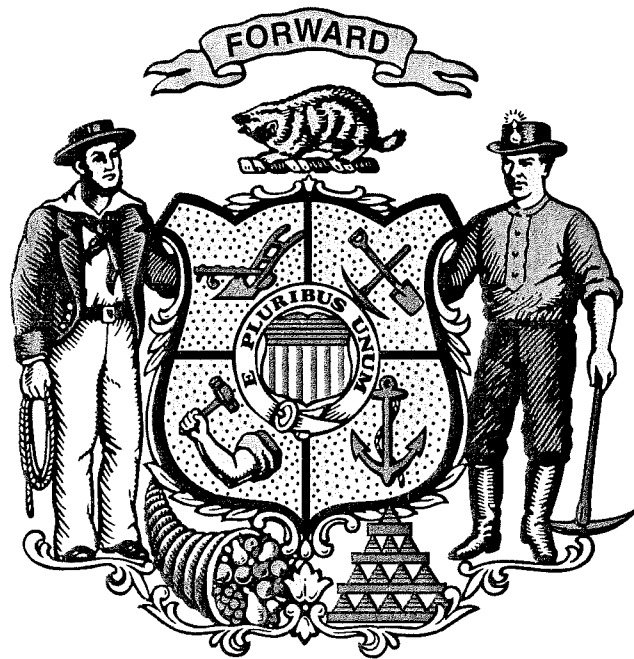
Wisconsin lakes and rivers are precious resources and essential to Wisconsin's culture and sense of identity. Phosphorus from lawn fertilizers can run off into our lakes and streams and have a negative impact on water quality. According to the Department of Natural Resources, an estimated 40 percent of streams in Wisconsin, and 90 percent of inland lakes, are degraded or threatened by polluted runoff.

Excess phosphorus is a major cause of these algae blooms. When fertilizer containing phosphorous is applied to nearby yards, phosphorus inevitably ends up in the lakes and streams. While both nitrogen and phosphorous promote plant growth, phosphorus in our lakes and streams is what makes the ugly smelly algae blooms that rob us of enjoying our lakes. These blooms are detrimental to native plant life. They lower oxygen levels in the water, resulting in fish kills. In addition, water rich in nutrients such as phosphorus encourages the spread of invasive species that can further damage the ecosystem of a lake.

This bill provides exceptions for agriculture, new lawns and lawns where a soil test demonstrates a phosphorus deficiency. The bill does not apply to fertilizer products that are animal or vegetable manure or finished sewage sludge. These products are good examples of the reuse of waste and have a small level of phosphorus that cannot be removed.

Switching to non-phosphorus lawn fertilizers will improve Wisconsin's water quality and help control polluted runoff.

Thank you for your consideration. I look forward to the Senate passing this important legislation.





Assembly Bill 3/Senate Bill 5 testimony
Amber Meyer Smith, Clean Wisconsin Program Director
February 11, 2009

Clean Wisconsin supports Assembly Bill 3 and Senate Bill 5, bills that limit the sale of fertilizers that contain phosphorus. These bills are important, bipartisan steps toward cleaning up our waterways and protecting them for future generations.


Phosphorus from lawn fertilizers can runoff into our lakes and streams and have a negative impact on water quality. In addition to being a smelly eyesore, phosphorus running into the lakes causes algae, which chokes the waterway and kills plants and fish. Choking out the natural ecosystem also promotes the spread of invasive species.

Forty percent of streams and ninety percent of our inland lakes are threatened by polluted runoff. Everyone needs to be part of the solution in addressing the negative impacts to our waterways. Addressing phosphorus for unnecessary uses is a step in the right direction.

Dane County has led by example, banning the use and sale of phosphorus-containing fertilizers since 2005. Clean Wisconsin urges the passage of these bills, and looks forward to continuing to work on runoff issues in the future.

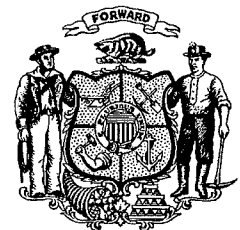


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WISCONSIN STATE LEGISLATURE



Senate Bill 5, Senate Committee on Environment
Richard Wedepohl
Past President North American Lake Management Society
February 11, 2009

Mr. Chairman and Committee Members:

Good morning. My name is Richard Wedepohl and I am a Past President of the North American Lake Management Society. I also recently retired from the Wisconsin Department of Natural Resources where I served in many water related programs for over 35 years with most of that time having responsibilities for DNR's Lake and Nonpoint Source Programs. The opportunity to provide testimony in support of Senate Bill 5 is very much appreciated.

In earlier testimony you heard a great deal about the importance of controlling excessive use of phosphorus. Since the science related to phosphorus and water quality problems has been well established, going back to the late 1960's and early 1970's, I'll don't think spending more time on that is relevant.

Perhaps, however, it would be helpful to the committee if I could provide some brief history on the issue of phosphorus to help put this bill, and its importance, in perspective.

In June of 1967 the National Academy of Sciences (NAS) and National Research Council (NRC) sponsored an international symposium on phosphorus, held here in Madison and attended by almost 600 persons from the U.S. and 11 foreign countries. Following this key meeting, Wisconsin, along with several other states, passed legislation that prohibited the use of phosphorus in laundry detergent. I don't know if anyone remembers this, but at the time it was a quite contentious debate. What sticks most in my mind were the dozens of people the industry brought in, some who even testified that this ban would destroy their washing machines. The ban was put in place, washing machines continued to work, and most importantly, dramatic improvements were documented in the quality of the Great Lakes following this major step.

Although Senate Bill 5 won't result in the same dramatic water quality improvements as did the ban on laundry detergents, it still provides many benefits and is well deserving of the support it is getting.

Some Additional Thoughts

- 1) Encourage the University to re-visit their phosphorus fertilizer recommendations for turf. Although these recommendations were updated about 10 years ago to remove, what was called a phosphorus build-up philosophy that the Phosphate Institute had promoted, many argue their recommendations are still too high.

- 2) Don't spend too much time worrying about follow-up details such as enforcement, laboratory certification, etc. By simply removing phosphorus containing lawn fertilizers from store shelves, the majority of benefits from this bill will be accomplished.
- 3) Consider a bill that would ban use of phosphorus in automatic dishwasher detergents. Over the past few years some states and several municipalities have also banned phosphorus in the use of automatic dishwasher detergents since recent studies by Consumer Reports and others have shown there are excellent, phosphorus free alternatives now available. Presently we have no such ban in Wisconsin. Current estimates are that between 8% and 15% of the amount of phosphorus received by wastewater treatment plants comes from this source. In Madison, approximately 780,000 pounds of P are treated each year at a cost of approximately \$1.6 M. If P in automatic dishwasher detergent was also banned, one might expect savings on the order of \$150,000/yr. Additionally, such action would also result in reductions of the phosphorus content of the organic products that are allowed by this bill. Bottom line on this issue: Do we really need to continue to put, what essentially is a Miracle Gro equivalent, into our automatic dishwashers?
- 4) Continue to support efforts to reduce phosphorus use in the agricultural environment. This is, by far, the biggest source of phosphorus loading to our waters. Although some good efforts are being made through education and other means, we still need to continue working on reducing the excess commercial phosphorus still being imported into our state, whether it be from animal feed supplements or commercial fertilizer.

Thank you for the opportunity to provide this testimony.



WISCONSIN STATE LEGISLATURE



February 11, 2009

The Honorable Mark Miller
Wisconsin State Senate
Room 317 East
State Capitol
P.O. Box 7882
Madison, WI 53707-7882

Re: Senate Bill 5 Testimony

Good morning Chairman Miller and Committee Members, thank you for the opportunity to address the Committee today. I am Chris Wible, Director of Environmental Stewardship at The Scotts Miracle-Gro Company. The Scotts Company is the market leader in the do-it-yourself lawn and garden category.

Scotts incorporates a culture of continuous improvement, environmental stewardship, and sustainability in its products and its interactions with the consumer. We are supportive of efforts to protect and enhance water quality and actively engage with government and non-government organizations ranging from the Chesapeake Bay Foundation to the Alliance for the Great Lakes. Our current lawn products, available at retail outlets across the country are all zero-phosphorus or low-phosphorus.

We are supportive of the legislation and the goals it seeks to achieve. We believe the legislation can be improved and be more sustainable with a couple minor revisions – namely pertaining to the display and availability of Starter fertilizer, and the allowance of natural and organic products.

Starter fertilizer is clearly labeled and positioned as a one-time use product, used at the time of seed establishment- this is reflected in the product name, the label graphics, and the use directions. Starter fertilizer is a niche product, accounting for less than 5% of fertilizer sales, it carries a much higher price point than standard lawn fertilizer, 75% higher. A bag of Starter fertilizer runs \$20.00 compared to a bag of lawn fertilizer at \$12.00 –this price differential is a further assurance that consumers are selecting this product for its intended use.

Prohibiting display of Starter unnecessarily adds an incremental burden to retailers, who we know already are experiencing difficult times, as well as a burden on the consumers of Wisconsin. It will also adversely impact the adjacent category of grass seed – reducing consumer success, and increasing complaints to retailers and manufacturers. It is not a value-added measure, it is punitive and effectively restricts the sale of a product that is permitted under the law. This sends a conflicting message to retailers and consumers.

Please note that phosphorus in lawn fertilizer accounts for less than one half of one percent of statewide use – and Starter fertilizer products represent just 5% of total fertilizer sales. Manufacturers are supportive of the legislative efforts and have already responded by making zero phosphorus and low phosphorus products available to consumer. The use exemption and display exemption for Starter fertilizer is consistent with this commitment to providing Wisconsin consumer with the right products to be successful and be protective of the environment. We respectfully request the Committee amend the legislation to exempt the display of Starter fertilizers.

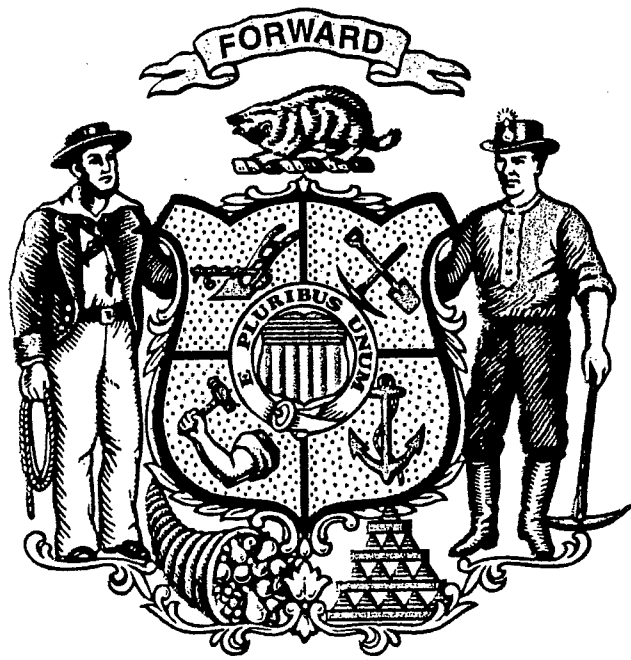
The state of MN, the first state to implement a state wide phosphorus ban does not have a similar restriction on the display of Starter fertilizer. All other fertilizers are zero phosphorus. Sales of Starter in MN have remained unchanged – they parallel the sales of grass seed providing assurance that the consumer is utilizing the product for the intended purpose. This has not detracted from the goals of the MN law and we can be confident with this exemption knowing that it will not detract from the goals here in Wisconsin.

I would also like to call to the committee's attention the fact that the limited definition of manipulated animal or vegetable manure would result in the elimination of natural and organic products from the market in the state of Wisconsin. The new wording would only allow single source, straight manure products. It would not permit blended products which serve to utilize the manure waste stream and make viable end-use products that are more environmentally protective. Consumers, governments and non-governmental organizations have been promoting the use of natural and organic products and the market has responded. The current legislation would eliminate these natural and organic products. This appears to be an unintended oversight since this allowance has been granted to biosolid products.

This issue has been recognized and may be resolved in the Assembly version, via the adoption of the current statutory definition of manipulated animal and vegetable manure. I wanted to draw your attention to this in the event that it is not addressed in the Assembly.

Thank you,

Chris J. Wible
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**Written Testimony of Representative Garey Bies
Assembly Committee on Natural Resources
Senate Bill 5 – Restriction on the Sale of Fertilizer containing Phosphorous**

Good morning committee members, I appreciate the opportunity to submit my testimony in support of Senate Bill 5, relating to the restriction on the sale of fertilizer containing phosphorous.

First I would like to begin by thanking Representative Black for taking the lead on my legislation from last session, and with no pun intended, helping to carry the water on this proposal! I'd also like to thank Senator Miller for his continuing leadership on this issue.

Coming from the First Assembly District, I have more lake frontage than any other Assembly District in Wisconsin. I first introduced this proposal last session at the request of the Soil and Water Department of Door County. This session, I am proud to be part of a strong bipartisan group of authors that understand the significance of this legislation. The quality of our lake water is incredibly important to my district as it is to all of Wisconsin.

Senate Bill 5 places restrictions on the sale and use of fertilizers containing phosphorous in an attempt to stem the flow of excess phosphorous into our environment.

First, this legislation restricts the sale of fertilizer containing phosphorous except for authorized purposes which include starting new lawns or for applications in areas that are shown to be phosphorous deficient. If there is sufficient phosphorous in the soil, additional phosphorous is not needed, and simply flushes away in run-off.

Secondly, the legislation prevents a retailer from displaying fertilizer containing phosphorous and instead authorizes a retailer to post a sign indicating that phosphorous fertilizer is available for purchase provided the intended use meets the authorized purposes.

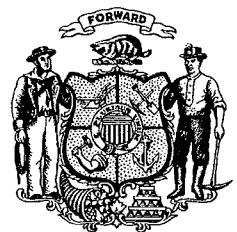
There has been much discussion with this legislation since it was first introduced last session. The proposal has widespread support throughout Wisconsin and it is time for the state legislature to act.

I will conclude my brief remarks by respectfully requesting your support of Senate Bill 5 in committee. I would be happy to answer any questions that you may have. Thank you.

First for Wisconsin!



WISCONSIN STATE LEGISLATURE





Wisconsin Association of Lakes

A nonprofit group of citizens, organizations, and businesses working for clean, safe, healthy lakes for everyone.

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Senate Environment Committee
Chair Sen. Mark Miller
Room 317 East
State Capitol
P.O. Box 7882
Madison, WI 53707

Dear Senator Miller and Committee members,

Thank you for the opportunity to voice our support for AB 3.

Reducing and preventing phosphorus runoff is a top priority for lake management organizations. Many of our members have been working for years to develop phosphorus free lawn fertilizer programs on a lake by lake basis, asking retailers to stock phosphorus free fertilizer, and working with their town, village, or city governments to pass local phosphorus ordinances. But local efforts—while widespread across the state—have not been enough.

Nutrients like phosphorus—a common ingredient in lawn fertilizer—are degrading 90% of Wisconsin's inland lakes. Plants don't absorb more phosphorus than they can use, and excess phosphorus from lawns washes directly into our lakes and streams, causing smelly algae blooms, fish kills, and declining water quality.

Lakes and rivers can be extremely sensitive to small amounts of phosphorus runoff. Tiny amounts of phosphorus (as little as 25 parts per billion) can cause excessive algae growth in lakes. Preventing even small amounts of phosphorus from getting into the water can make a big difference. And it is much easier to prevent phosphorus from entering our lakes than it is to manage the problems caused once it gets there.

In addition, many undesirable (and expensive to manage) invasive species such as Eurasian water milfoil, curly leaf pondweed, and carp prefer nutrient rich waters. While not a prevention strategy unto itself, minimizing the amount of nutrients entering our waters may make conditions less ideal for some invasive species.

A growing body of research finds using phosphorus free lawn fertilizer is a common sense, simple, and cost effective way to reduce the amount of nutrients entering our waterways.

Wisconsin lawns and soils already contain adequate—and often excessive—amounts of phosphorus. It takes 20 parts per million (ppm) of soil phosphorus to grow healthy turf.

Agricultural soils in every Wisconsin county have at least 20 ppm of soil phosphorus, with the average concentration being 53 ppm. Some counties have significantly higher concentrations, up to 160 ppm. Phosphorus levels in residential Wisconsin lawns have been estimated on average to contain twice the amount of phosphorus (105 ppm) than the average farm field. Soil testing of residential lawns across the state (see map) indicates that the vast majority of lawns already contains enough phosphorus to support healthy turf.

Wisconsin's lake organizations invest private funds to help manage our public waters. Waterfront property owners are willing to do their part to prevent phosphorus from entering Wisconsin's lakes, but they need your help. After decades of local efforts, Wisconsin lake groups, local governments, counties and citizens are calling for statewide restrictions on phosphorus in lawn fertilizer.

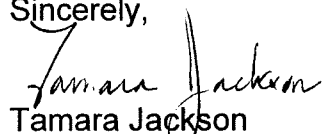
A statewide policy would ensure consistency across the state for consumers, retailers, and suppliers. Although phosphorus fertilizer ordinances have passed in thirty two cities, villages, and towns, without consistent, statewide policy consumers may unknowingly violate local ordinances designed to protect local lakes by buying products in jurisdictions without similar ordinances.

This simple, common sense bill doesn't result in any increased costs for consumers, retailers, or taxpayers. There have been no increased regulatory burdens or enforcement issues where it has been implemented. It just helps keep our waters a little cleaner. Using phosphorus free lawn fertilizer is a common easy way everyone can contribute to better water quality—regardless of where they live.

Passage of AB 3 would be a significant step forward in the efforts to curb the avalanche of nutrients that pollute our public lakes.

Thank you for your continued leadership and support on this important issue.

Sincerely,



Tamara Jackson
Wisconsin Association of Lakes



Contact: Tami Jackson, Director of Communications

Cell phone: 920-216-6139

E-mail: tjackson@wisconsinlakes.org

Additional sources, maps, and photos online at www.wisconsinlakes.org/press1-12-09.html

Fast facts about phosphorus and the Clean Lake bill (AB 3)

- Excess phosphorus in lakes causes algae blooms, and water quality decline.
- Rain and snowmelt (runoff) washes phosphorus off lawns, streets, and fields into lakes.
- Polluted runoff is impairing or threatening an estimated 90% of inland lakes
- It takes 20 parts per million (ppm) of soil phosphorus to grow healthy turf; 25 parts per **billion** (a quantity 1000 times smaller) can promote excessive algae growth in lakes
- Plants don't absorb more phosphorus than they can use
- Recent data estimates phosphorus levels in residential Wisconsin lawns have, on average, twice the amount of phosphorus (105 ppm) than the average farm field; that's 5 times more phosphorus than a healthy lawn needs
- Healthy lawns can be maintained using phosphorus-free fertilizers
- Research finds using phosphorus-free lawn fertilizer is a common sense, simple, and cost effective way to reduce the amount of nutrients entering our waterways.
- This bill would prohibit the display, sale and use of lawn fertilizer containing Phosphorus (with very limited exceptions).
- A simple, inexpensive soil test tells property owners if their lawn already has enough phosphorus
- If a soil test demonstrates phosphorus is needed, consumers can use phosphorus lawn fertilizer. Other exemptions allow application of phosphorus fertilizer when establishing a new lawn.
- This simple, common sense bill doesn't result in any increased costs for consumers, retailers, or taxpayers.
- It's a policy that is has been working in Dane County, Minnesota, and parts of Michigan for several years.
- Many lake groups, local governments, counties and citizens are calling for statewide restrictions on phosphorus in lawn fertilizer.
- A statewide policy would save local governments the duplicative costs of developing independent ordinances and ensure consistency across the state for consumers, retailers, and suppliers.

Activity in other states

- Minnesota has had a successful statewide law banning use and sale of phosphorus lawn fertilizer in effect since 2005. More info on Minnesota's law at <http://www.mda.state.mn.us/protecting/waterprotection/phoslaw.htm>
- A 2007 state evaluation of the effectiveness of Minnesota's 2005 law found:
 - The law had reduced phosphorus lawn fertilizer use by 82%
 - 97% of consumers are supportive of the law
 - Phosphorus-free lawn fertilizer is readily available (97% of stores)
 - Fertilizer manufacturers and retailers have adapted to the law
 - law has not increased consumer cost
 - Law was focus for extensive public and professional education
 - No enforcement of the law has been reported
- Maine passed a law (May 2007) prohibiting the sale or use of fertilizer containing phosphorus for nonagricultural lawn or turf (with some reasonable exceptions). There is no prohibition against display of phosphorus lawn fertilizer, although there is a signage requirement. There is momentum in Maine to looking at strengthening their law.
- Michigan has several county ordinances banning use or sale of phosphorus lawn fertilizer. The City of Ann Arbor passed an ordinance with the express purpose of preventing enough phosphorus runoff from entering the Huron River to meet EPA TMDL requirements and delay wastewater treatment plant infrastructure upgrades.
- As of 2006, the New Jersey Department of Environmental Quality will require more than 100 municipalities to adopt ordinances that ban the use of phosphorus lawn fertilizer to meet TMDLs.
- Several counties in Florida have phosphorus lawn fertilizer ordinances. In 2007, Florida adopted a statewide Urban Turf Fertilizer administrative rule that limits phosphorus and nitrogen content in fertilizers
- Interest in New York and Michigan in pursuing statewide legislation.

Existing momentum across Wisconsin

- Dane County passed an ordinance restricting the use, sale, and display of phosphorus lawn fertilizer in 2004; and has not experienced any implementation problems. Both this session and last session's bill was modeled after this ordinance. More info on Dane County's ordinance <http://www.danewaters.com/management/phosphorus.aspx>
- 11 Counties and the Wisconsin Counties Association passed resolutions calling for a statewide ban on phosphorus lawn fertilizers last legislative session
- 33 statewide and local groups and 7 local governments passed similar resolutions
- 32 cities, villages, and towns have passed a variety of ordinances restricting the use and sale of phosphorus lawn fertilizer.

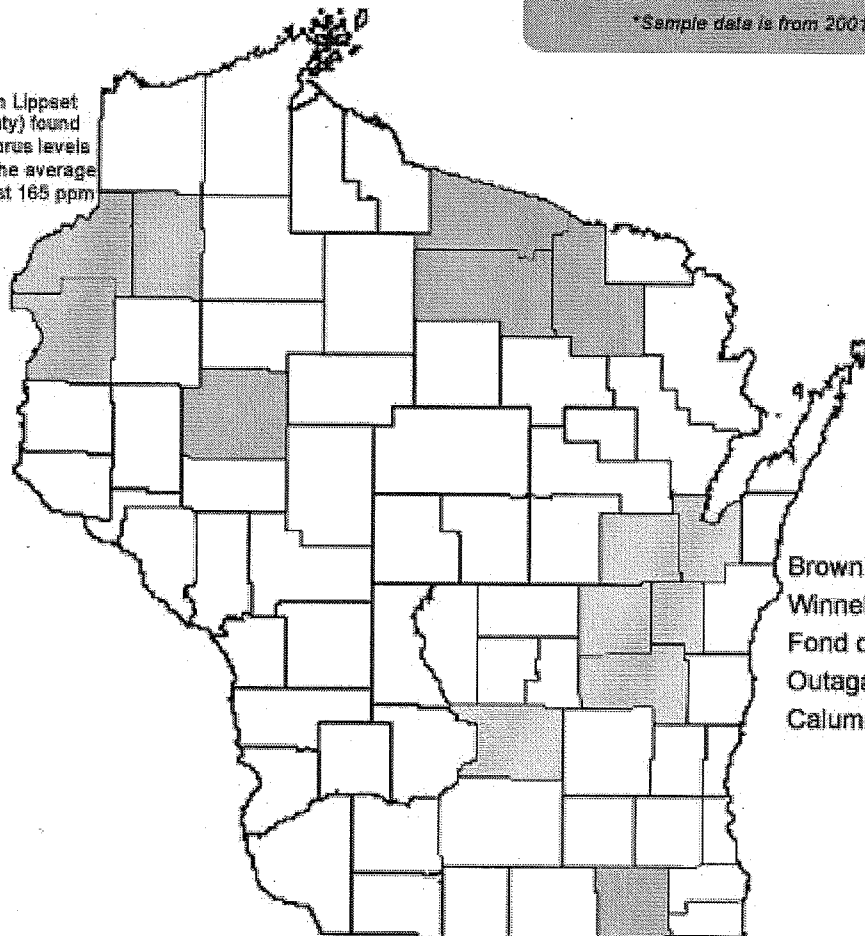
Phosphorus in Wisconsin lawns

Many parts of Northwest Wisconsin have naturally high soil phosphorus levels because of glacial deposits. Applying phosphorus lawn fertilizers is unnecessary and increases already high soil phosphorus concentrations.

Northeast Wisconsin's soils commonly contain greater than 120 parts per million (ppm) soil phosphorus, far exceeding the 20 ppm that is adequate to sustain healthy turf grass. See map below for average lawn soil phosphorus levels in five Northeast Counties.*

**Sample data is from 2001-2005 (UW-Lab)*

Recent samples on Lippset lake (Burnett County) found excessive phosphorus levels in lakeshore soil, the average 77 ppm, the highest 165 ppm



Brown: 200 ppm
Winnebago: 175 ppm
Fond du Lac: 148 ppm
Outagamie: 120 ppm
Calumet: 114 ppm

Two USGS studies on Wisconsin lakes found lawns send more phosphorus to the lake (10-100 times more than wooded sites) and lawn fertilizer choice makes a difference (lawns using phosphorus fertilizer produced 50% more phosphorus runoff)

A sampling of Dane County lawn soils found an average soil phosphorus concentration of 54 ppm. Some lawns had up to 438 ppm.