



**ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 1995 ASSEMBLY BILL 869**

February 22, 1996 – Offered by COMMITTEE ON AGRICULTURE.

1     **AN ACT to repeal** 94.68 (3) (bg) and 94.68 (4) (bm); **to renumber and amend**  
2     94.68 (3) (b); **to amend** 25.46 (4), 25.465 (1), 25.465 (2), 25.465 (3), 25.465 (4),  
3     25.465 (5), 25.465 (6), 94.64 (3) (c) 1. a. and c. and 2., 94.64 (4) (a), 94.65 (6) (a)  
4     1., 94.68 (3) (a) 2., 94.68 (3) (br), 94.68 (4) (a) 1., 94.68 (4) (b), 94.68 (4) (bt),  
5     94.685 (3), 94.703 (3) (a), 94.704 (3) (a), 94.73 (1) (g), 94.73 (6) (b) 1. and 2., 94.73  
6     (6) (d) and 159.09 (3) (b); and **to create** 25.465 (2m), 25.465 (4m), 94.68 (3) (a)  
7     1m., 94.68 (3) (b) 3. and 94.73 (7) (f) of the statutes; **relating to:** fees and  
8     surcharges concerning pesticides, fertilizers, agricultural lime and soil and  
9     plant additives and reimbursement for costs incurred because of discharges of  
10    agricultural chemicals.

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

11     **SECTION 1.** 25.46 (4) of the statutes is amended to read:  
12     25.46 (4) The moneys specified under s. 94.68 (4) (b), ~~(bm)~~ and (bt) for  
13     groundwater management.

14     **SECTION 2.** 25.465 (1) of the statutes is amended to read:

1           25.465 (1) The fees and any surcharges imposed under s. 94.64 (3) (c), (3m) (b)  
2 and (4) (a) and (d).

3           **SECTION 3.** 25.465 (2) of the statutes is amended to read:

4           25.465 (2) The fees and any surcharges imposed under s. 94.65 (2) (a), (3) (b)  
5 and (6) (a) 1.

6           **SECTION 4.** 25.465 (2m) of the statutes is created to read:

7           25.465 (2m) The fees imposed under s. 94.66 (4).

8           **SECTION 5.** 25.465 (3) of the statutes is amended to read:

9           25.465 (3) The fees and any surcharges specified under s. 94.68 (4) (a).

10          **SECTION 6.** 25.465 (4) of the statutes is amended to read:

11          25.465 (4) The fees and surcharges imposed under s. 94.685 (3).

12          **SECTION 7.** 25.465 (4m) of the statutes is created to read:

13          25.465 (4m) The fees imposed under s. 94.702 (3).

14          **SECTION 8.** 25.465 (5) of the statutes is amended to read:

15          25.465 (5) The fees and any surcharges imposed under s. 94.703 (3).

16          **SECTION 9.** 25.465 (6) of the statutes is amended to read:

17          25.465 (6) The fees and any surcharges imposed under s. 94.704 (3).

18          **SECTION 10.** 94.64 (3) (c) 1. a. and c. and 2. of the statutes are amended to read:

19           94.64 (3) (c) 1. a. For each business location and each mobile unit that the  
20 applicant uses to manufacture fertilizer in this state and that is not licensed under  
21 s. 94.685 or 94.703, ~~\$50~~ \$25 plus an agricultural chemical clean-up surcharge of \$25,  
22 except that no surcharge is due for the license year beginning on August 15, 1997.

23           c. If the applicant distributes fertilizer but does not manufacture it in this state,  
24 ~~\$50~~ \$25 plus an agricultural chemical clean-up surcharge of \$25, except that no  
25 surcharge is due for the license year beginning on August 15, 1997.

1           2. The department shall deposit the fees and surcharges collected under this  
2 paragraph in the agrichemical management fund.

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

4           94.64 (4) (a) A person who sells or distributes fertilizer in this state shall pay  
5 to the department a fee of ~~70~~ 25 cents per ton plus an agricultural chemical clean-up  
6 surcharge of 45 cents per ton for all fertilizers sold or distributed in this state, except  
7 that no surcharge is due for fertilizers sold or distributed in this state from July 1,  
8 1996, to June 30, 1997, with a minimum fee payment of \$25 for 25 tons or less. ~~This~~  
9 ~~The fee shall not be~~ and surcharge are not applicable to fertilizer materials or  
10 products sold to manufacturers or exchanged between them for further  
11 manufacturing or further processing. The department shall deposit the fees and  
12 surcharges collected under this paragraph in the agrichemical management fund.

13           **SECTION 12.** 94.65 (6) (a) 1. of the statutes is amended to read:

14           94.65 (6) (a) 1. Annually by March 31, file with the department a tonnage report  
15 setting forth the number of tons of each soil or plant additive distributed during the  
16 preceding year by that person or by any other person authorized under sub. (3) (a)  
17 2. to distribute under the name of that person and pay to the department an  
18 inspection fee of ~~70~~ 25 cents per ton plus an agricultural chemical clean-up  
19 surcharge of 45 cents per ton so distributed, except that no surcharge is due for soil  
20 or plant additives distributed during 1997. The minimum total fee is \$25.

21           **SECTION 13.** 94.68 (3) (a) 1m. of the statutes is created to read:

22           94.68 (3) (a) 1m. "Industrial pesticide" means a pesticide that is not a  
23 household pesticide and that either is solely labeled for use on wood and contains  
24 pentachlorophenol, coal tar creosote or inorganic arsenical wood preservatives or is  
25 labeled for use in controlling algae, fungi, bacteria, other microscopic organisms or

1 mollusks in or on one or more of the following and for no other use except for a use  
2 described in subd. 1. f. or g.:

3 a. Textiles, paper, leather, plastic, vinyl or other synthetic materials, metal or  
4 rubber.

5 b. Paints, varnishes, lubricants, fuels and commercial, manufacturing or  
6 industrial fluids, including adhesives, additives and pigments.

7 c. Commercial, manufacturing or industrial processes, equipment, devices or  
8 containers, other than those used in the production or storage of human food or  
9 animal feed.

10 d. Air washing, cooling or heat transfer systems.

11 e. Medical equipment.

12 f. Drinking water or wastewater systems.

13 **SECTION 14.** 94.68 (3) (a) 2. of the statutes is amended to read:

14 94.68 (3) (a) 2. "Nonhousehold pesticide" means a pesticide that is not a  
15 household pesticide or an industrial pesticide.

16 **SECTION 15.** 94.68 (3) (b) of the statutes is renumbered 94.68 (3) (b) 1. and  
17 amended to read:

18 94.68 (3) (b) 1. A licensee shall pay an annual license fee for each pesticide  
19 product to be sold or distributed by the licensee in the license year that is based on  
20 the volume of the licensee's sales of the pesticide product for use within the this state  
21 during the preceding year.

22 2. The fee under this paragraph shall be the following amount for each  
23 household pesticide product:

24 a. For no sales or sales of less than \$25,000, ~~\$235~~ \$265.

25 b. For sales equal to or greater than \$25,000, but less than \$75,000, ~~\$720~~ \$750.

1 c. For sales equal to or greater than \$75,000, ~~\$1,470~~ \$1,500.

2 **SECTION 16.** 94.68 (3) (b) 3. of the statutes is created to read:

3 94.68 (3) (b) 3. The fee under this paragraph shall be the following amount for  
4 each industrial or nonhousehold pesticide:

5 a. For no sales or sales of less than \$25,000, \$315.

6 b. For sales equal to or greater than \$25,000, but less than \$75,000, \$860.

7 c. For sales equal to or greater than \$75,000, \$3,060.

8 **SECTION 17.** 94.68 (3) (bg) of the statutes is repealed.

9 **SECTION 18.** 94.68 (3) (br) of the statutes is amended to read:

10 94.68 (3) (br) In addition to the fees under par. (b), a licensee shall pay ~~a~~ an  
11 agricultural chemical clean-up surcharge for each nonhousehold pesticide product  
12 to be sold or distributed by the licensee in the license year that is based on the volume  
13 of the licensee's sales of the nonhousehold pesticide product for use within the state  
14 during the preceding year, except that no surcharge is due on sales from October 1,  
15 1995, to September 30, 1996. The surcharge shall be the following amount:

16 1. For no sales or sales of less than \$25,000, ~~\$90~~ \$10.

17 2. For sales equal to or greater than \$25,000, but less than \$75,000, ~~\$340~~ \$200.

18 3. For sales equal to or greater than \$75,000, an amount equal to ~~the sum of~~  
19 ~~\$1,590~~ plus 1.3% of those sales.

20 **SECTION 19.** 94.68 (4) (a) 1. of the statutes is amended to read:

21 94.68 (4) (a) 1. An amount equal to the difference between all of the license fees  
22 received under sub. (3) (b), (c) and (e) and all of the amounts deposited under pars.  
23 (b), ~~(bm)~~ (bt) and (c).

24 **SECTION 20.** 94.68 (4) (b) of the statutes is amended to read:

1           94.68 (4) (b) The department shall deposit in the environmental fund for  
2 groundwater management an amount equal to \$50 of the amount received for each  
3 household pesticide product under sub. (3) (b), (c) and (e).

4           **SECTION 21.** 94.68 (4) (bm) of the statutes is repealed.

5           **SECTION 22.** 94.68 (4) (bt) of the statutes is amended to read:

6           94.68 (4) (bt) The department shall deposit in the environmental fund for  
7 groundwater management all of the an amount equal to \$30 for each household  
8 pesticide product under sub. (3) (b), (c) and (e) for hazardous waste collection and  
9 disposal surcharges received under sub. (3) (bg).

10          **SECTION 23.** 94.685 (3) of the statutes is amended to read:

11          94.685 (3) A licensee shall pay an annual license fee for each location from  
12 which the licensee sells restricted-use pesticides, including any new location opened  
13 during the license period. A licensee who opens a new sales location during the  
14 license period may not sell a restricted-use pesticide from the new location unless  
15 the licensee has paid the license fee for that new sales location. The amount of the  
16 license fee is ~~\$100~~ \$50 plus an agricultural chemical clean-up surcharge of \$50 for  
17 each location, except that if ~~the a~~ a location is also licensed under s. 94.703 the license  
18 fee is ~~\$50~~ surcharge does not apply to that location and except that for the license  
19 year beginning on January 1, 1997, no surcharge is due under this subsection.

20          **SECTION 24.** 94.703 (3) (a) of the statutes is amended to read:

21          94.703 (3) (a) A licensee under this section shall pay an annual license fee of  
22 ~~\$125~~ \$50 plus an agricultural chemical clean-up surcharge of \$75. If the licensee  
23 operates from more than one business location in this state, the licensee shall also  
24 pay ~~a fee of \$125~~ the license fee and the surcharge for each additional business  
25 location operated by the licensee, including each new business location added during

1 the license year. No agricultural chemical clean-up surcharge is due under this  
2 paragraph for the license year beginning on January 1, 1997.

3 **SECTION 25.** 94.704 (3) (a) of the statutes, as affected by 1995 Wisconsin Act 27,  
4 is amended to read:

5 94.704 (3) (a) Except as provided under par. (b), a licensee under this section  
6 shall pay an annual license fee of \$60 \$35 plus an agricultural chemical clean-up  
7 surcharge of \$25, except that no agricultural chemical clean-up surcharge is due for  
8 the license year beginning on January 1, 1997. The department shall deposit all  
9 license fees and surcharges collected under this paragraph in the agrichemical  
10 management fund.

11 **SECTION 26.** 94.73 (1) (g) of the statutes is amended to read:

12 94.73 (1) (g) "Nonhousehold pesticide" has the meaning given in s. 94.68 (3) (a)  
13 2., ~~except that it does not include pentachlorophenol, inorganic arsenical wood~~  
14 ~~preservatives and coal tar creosote.~~

15 **SECTION 27.** 94.73 (6) (b) 1. and 2. of the statutes are amended to read:

16 94.73 (6) (b) 1. An amount equal to ~~75%~~ 80% of the corrective action costs that  
17 exceed \$7,500 for a person required to be licensed under ss. 94.64 to 94.71 or that  
18 exceed \$3,000 for any other person but that do not exceed \$100,000.

19 2. If the corrective action includes groundwater remediation ordered by the  
20 department under sub. (2) or by the department of natural resources under s. 144.76  
21 (7) (c), ~~80%~~ 85% of the corrective action costs that exceed \$100,000 but that do not  
22 exceed \$300,000.

23 **SECTION 28.** 94.73 (6) (d) of the statutes is amended to read:

24 94.73 (6) (d) If the corrective action is related to a discharge that occurred in  
25 the course of transporting an agricultural chemical, the reimbursement under par.

1 (b) is limited to ~~75%~~ 80% of the corrective action costs that exceed \$7,500 for a person  
2 required to be licensed under ss. 94.64 to 94.71 or that exceed \$3,000 for any other  
3 person but that do not exceed \$50,000.

4 **SECTION 29.** 94.73 (7) (f) of the statutes is created to read:

5 94.73 (7) (f) Before the first day of the 2nd month beginning after the effective  
6 date of this paragraph .... [revisor inserts date], the department shall make a  
7 payment to each person that received reimbursement under this section before the  
8 effective date of this paragraph .... [revisor inserts date], equal to 6.667% of the  
9 amount of that reimbursement up to \$69,375 and 6.25% of any amount by which that  
10 reimbursement exceeded \$69,375.

11 **SECTION 30.** 159.09 (3) (b) of the statutes is amended to read:

12 159.09 (3) (b) Adopt an ordinance to enforce the program established under  
13 sub. (2) (a). The ordinance may include a schedule of forfeitures to be imposed for  
14 violations of that ordinance. The ordinance may authorize the responsible unit or  
15 person designated under par. (a) to refuse to accept solid waste at the recycling  
16 facility or site if the solid waste is a container for an industrial pesticide, as defined  
17 in s. 94.68 (3) (a) 1m., or a nonhousehold pesticide, as defined in s. 94.68 (3) (a) 2.,  
18 is contaminated or is otherwise in a condition that makes recycling infeasible. The  
19 ordinance may require a person to use a facility for the recycling of solid waste or for  
20 the recovery of resources from solid waste, as defined in s. 159.13 (1) (d), only as  
21 provided under s. 159.13.

22 **SECTION 31. Nonstatutory provisions.**

23 (1) RECOMMENDATIONS FOR FEE AND SURCHARGE REVISIONS. The department of  
24 agriculture, trade and consumer protection shall develop recommendations for  
25 revising the fees and surcharges that are paid into the agrichemical management



1 fund, taking into account the reimbursement of environmental costs under the  
2 agricultural chemical cleanup program and the other financial needs of the  
3 agrichemical management programs of the department. The department shall  
4 submit the recommendations to the legislature in the manner provided under section  
5 13.172 (2) of the statutes no later than December 31, 1996.

6

**(END)**